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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, v. RABOBANK, NATIONAL ASSOCIATION, Defendant.	Case No. 18cr0614-JM PLEA AGREEMENT

IT IS HEREBY AGREED between the UNITED STATES OF AMERICA, through its counsel, Adam L. Braverman, United States Attorney, and Daniel C. Silva, Mark W. Pletcher, and David J. Rawls, Assistant United States Attorneys, and Deborah L. Connor, Acting Chief, and Kevin G. Mosley and Maria Vento, Trial Attorneys, Money Laundering and Asset Recovery Section of the Criminal Division, Department of Justice, (collectively the "United States") and Defendant RABOBANK, NATIONAL ASSOCIATION, with the advice and consent of James G. Cavoli, Esq. and Tawfiq S. Rangwala, Esq., Milbank, Tweed, Hadley & McCloy LLP, counsel for Defendant, as follows:

I
THE PLEA

Defendant agrees to waive indictment and plead guilty to a one-count Information charging Defendant with:

> Beginning no later than March 2013 and continuing through April 2013, defendant RABOBANK, NATIONAL ASSOCIATION, did knowingly and intentionally conspire and agree with Executive A, Executive B, and Executive C, and others (A) to defraud the United States of and concerning its governmental functions and rights, including its right to have the affairs of the Office of the Comptroller of the Currency of the United States Department of the Treasury conducted honestly and impartially, free from deceit, craft, dishonesty, trickery, unlawful impairment, impediment, and obstruction; and (B) to commit an offense against the United States – that is, to corruptly obstruct and attempt to obstruct an examination of a financial institution by an agency of the United States with jurisdiction to conduct an examination of such financial institution, to wit the Office of the Comptroller of the Currency of the United States Department of the Treasury, in violation of 18 U.S.C. §1517;
>
> and that Defendant and its co-conspirators took an overt act in furtherance of this conspiracy;
>
> all in violation of Title 18, United States Code, Section 371.

In light of Defendant's acceptance of responsibility, cooperation, and remediation, as described in more detail herein, the United States agrees that it will not file additional criminal charges against Defendant or any of its direct or indirect affiliates, or Defendant's successors or assigns, for any act arising from the facts contained in, connected to, or involving the conduct described in the Statement of Facts (submitted concurrently herewith and incorporated as Attachment A), to the extent Defendant has truthfully and completely disclosed such conduct to the United States prior to the signing of this plea agreement, unless Defendant breaches the plea agreement or the guilty plea entered pursuant to this plea agreement is set aside for any reason. If Defendant breaches this plea agreement or the guilty plea is set aside, Section XVI below shall apply. The United States cannot and does not make any agreement relating to any potential criminal tax violations. The attached Forfeiture Addendum shall govern forfeiture in this case (submitted concurrently herewith and incorporated as Attachment B).

II
NATURE OF THE OFFENSE

A. ELEMENTS EXPLAINED

The offense to which Defendant is pleading guilty has the following elements:

1. Beginning no later than March 2013, and continuing up to and including approximately April 2013, there was an agreement between two or more persons (A) to defraud the United States by impairing, impeding and obstructing the lawful functions of the Office of the Comptroller of the Currency of the United States Department of the Treasury by deceitful or dishonest means and (B) to obstruct the examination of Defendant by the Office of the Comptroller of the Currency of the United States Department of the Treasury, in violation of 18 U.S.C. §1517;
2. Defendant became a member of the conspiracy knowing of at least one of its objects and intending to help accomplish it; and
3. One of the members of the conspiracy performed at least one overt act in or after March 2013 for the purpose of carrying out the conspiracy.

B. ELEMENTS UNDERSTOOD AND ADMITTED – FACTUAL BASIS

Defendant has fully discussed the facts of this case with defense counsel. Defendant agrees that it, through certain of its officers, directors, or employees, committed each element of the crime and admits that there is a factual basis for this guilty plea. Defendant admits, acknowledges, accepts, and stipulates that the facts set forth in the Statement of Facts are true and undisputed and establish beyond a reasonable doubt the guilt of Defendant on the offense charged in the Information. Defendant further agrees that the Statement of Facts constitutes a stipulation of facts for the purposes of Section 1B1.2(a) of the United States Sentencing Guidelines.

III
PENALTIES

The offense to which Defendant is pleading guilty carries the following penalties:

A. a maximum $500,000 fine, or twice the gross gain or gross loss resulting from the offense, whichever is greatest;

B. a mandatory special assessment of $400; and

C. a term of probation of at least one year, but not more than five years.

IV
DEFENDANT'S WAIVER OF TRIAL RIGHTS AND UNDERSTANDING OF CONSEQUENCES

This guilty plea waives (gives up) Defendant's right at trial:

A. To continue to plead not guilty and require the United States to prove the elements of the crime beyond a reasonable doubt;

B. To a speedy and public trial by jury;

C. To the assistance of counsel at all stages;

D. To confront and cross-examine adverse witnesses;

E. To testify, present evidence, and have witnesses testify on Defendant's behalf;

F. Not to testify or have adverse inferences drawn from the failure to testify; and

G. To assert any legal, constitutional, statutory, regulatory, and procedural rights and defenses that it may have under any source of federal or common law, including among others, challenges to personal jurisdiction, extraterritoriality, the statute of limitations, venue, and the form and substance of the Information, including any claim of multiplicity or duplicity.

V
DEFENDANT ACKNOWLEDGES NO PRETRIAL RIGHT TO BE PROVIDED WITH IMPEACHMENT AND AFFIRMATIVE DEFENSE INFORMATION

Any information establishing the factual innocence of Defendant known to the undersigned prosecutors in this case has been turned over to Defendant. The United States will continue to provide such information establishing the factual innocence of Defendant.

If this case proceeded to trial, the United States would be required to provide impeachment information for its witnesses. In addition, if Defendant raised an affirmative defense, the United States would be required to provide information in its possession that supports such a defense. By pleading guilty, Defendant will not be provided this information, if any, and Defendant waives (gives up) any right to this information. Defendant will not attempt to withdraw the guilty plea or to file a collateral attack based on the existence of this information.

VI
DEFENDANT'S REPRESENTATION THAT GUILTY PLEA IS KNOWING AND VOLUNTARY

Defendant represents that:

A. Defendant, and certain of its executive managers and board of directors, has had a full opportunity to discuss all the facts and circumstances of this case with defense counsel and has a clear understanding of the charges and the consequences of this plea. By pleading guilty, Defendant may be giving up, and rendered ineligible to receive, valuable government benefits and civic rights. The conviction may subject Defendant to collateral consequences, including but not limited to revocation of probation or deferred prosecution in another case; debarment from government contracting; and suspension or revocation of a professional license, none of which can serve as grounds to withdraw Defendant's plea.

B. Other than those contained in this plea agreement, no one has made any promises or offered any rewards in return for this guilty plea.

C. No one has threatened Defendant or Defendant's officers, managers, board of directors, or agents to induce this guilty plea.

D. Defendant is pleading guilty because Defendant is guilty and for no other reason.

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VII
AGREEMENT LIMITED TO UNITED STATES

This plea agreement is limited to the United States Attorney's Office for the Southern District of California and the Department of Justice, Criminal Division, Money Laundering and Asset Recovery Section and cannot bind any other authorities in any type of matter, although the United States will bring this plea agreement to the attention of other authorities if requested by Defendant.

VIII
APPLICABILITY OF SENTENCING GUIDELINES

The sentence imposed will be based on the factors set forth in 18 U.S.C. § 3553. In imposing the sentence, the sentencing judge must consult the United States Sentencing Guidelines ("Guidelines" or "USSG") and take them into account. Defendant has discussed the Guidelines with defense counsel and understands that the Guidelines are only advisory. The Court may impose a sentence more severe or less severe than otherwise applicable under the Guidelines, up to the maximum in the statute of conviction. The sentence cannot be determined until a presentence report is prepared by the U.S. Probation Office and defense counsel and the United States have an opportunity to review and challenge the presentence report. Nothing in this plea agreement limits the United States' duty to provide complete and accurate facts to the District Court and the U.S. Probation Office.

Defendant agrees that the facts set forth in the Statement of Facts filed concurrently herewith are true and may be considered as to the nature and circumstances of the offense under 18 U.S.C. § 3553(a)(1) and as to "relevant conduct" under USSG § 1B1.3. Nothing in this plea agreement limits the rights of the parties to present to the Probation Office or the Court any additional facts relevant to sentencing.

IX
SENTENCE IS WITHIN SOLE DISCRETION OF JUDGE

This plea agreement is made pursuant to Federal Rule of Criminal

Procedure 11(c)(1)(B). The sentence is within the sole discretion of the sentencing judge who may impose the maximum sentence provided by statute. It is uncertain at this time what Defendant's sentence will be. The United States has not made and will not make any representation about what sentence Defendant will receive. Any estimate of the probable sentence by defense counsel is not a promise and is not binding on the Court. Any recommendation by the United States at sentencing also is not binding on the Court. If the sentencing judge does not follow any or all of the parties' sentencing recommendations, and irrespective of the sentence imposed, Defendant will not withdraw its plea.

X
PARTIES' SENTENCING RECOMMENDATIONS

A. SENTENCING GUIDELINES CALCULATIONS

Although the Guidelines are only advisory and just one factor the Court will consider under 18 U.S.C. § 3553(a) in imposing a sentence, the parties will jointly recommend the following Base Offense Level, Base Fine Calculation, Specific Offense Characteristics, Culpability Score, and Multiplier pursuant to Chapter 8 of the Sentencing Guidelines:

Base Fine Calculation

1.	Base Offense Level [§§ 8C2.3/2C1.1(c)(2)/2J1.2(a)]	14
2.	Substantial Interference [§ 2J1.2(b)(2)]	3
3.	Extensive in Scope [§ 2J1.2(b)(3)(C)]	2

Culpability Score

4.	Base Level [§ 8C2.5(a)]	5
5.	> 1,000 Employees [§ 8C2.5(b)(2)(A)(i)]	4
6.	Prior Adjudications [§ 8C2.5(c)(1)]	1
7.	Corporate Cooperation and Acceptance of Responsibility[§ 8C2.5(g)(2)]	-2

The total Base Fine Calculation of 19 results in a base fine for Defendant of $500,000. USSG §§ 8C2.4(e)(1) (employing the Guidelines in effect on November 1, 2014 for offenses committed prior to November 1, 2015) and 8C2.4(d) (Nov. 1, 2014 Guidelines). Defendant's Minimum and Maximum Multipliers, based on the foregoing aggregate Culpability Score of 8, are 1.60 and 3.20, respectively, resulting in a total Fine Range of $800,000 and $1,600,000.

B. PARTIES' RECOMMENDATIONS REGARDING PROBATION

The parties agree to jointly recommend that the Court impose a term of probation of two years on Defendant (the "Stipulated Probation Term"). The parties further stipulate that the terms of probation shall include the applicable mandatory conditions of probation described in 18 U.S.C. § 3563(a)(1) and USSG § 8D1.3(a).

C. SPECIAL ASSESSMENT/FINE/FORFEITURE

1. Special Assessment

The parties will jointly recommend Defendant pay a special assessment in the amount of $400 to be paid forthwith at time of sentencing. The special assessment shall be paid through the office of the Clerk of the District Court by bank or cashier's check or money order referencing the criminal case number and made payable to the "Clerk, United States District Court."

2. Fine

In light of the $500,000 statutory maximum, the parties will jointly recommend that Defendant pay a fine in the amount of $500,000. The fine shall be paid through the Office of the Clerk of the District Court by bank or cashier's check or money order referencing the criminal case number and made payable to the "Clerk, United States District Court."

3. Forfeiture

As set forth in the attached Forfeiture Addendum, Defendant agrees to forfeit $368,701,259 U.S. dollars to the United States.

XI
FACTUAL ADHERENCE

Defendant agrees that it shall not, through its present or future attorneys, board of directors, executive management, or any other person authorized to speak for Defendant, or any present or future attorneys, board of directors, executive management, or any other person authorized to speak for any parent company or other entity related to Defendant, make any public statement, in litigation or otherwise, contradicting Defendant's acceptance of responsibility, as set forth herein and in the Statement of Facts, or contradicting that there is a sufficient factual basis to establish the Guidelines calculations set forth in this plea agreement. Any such contradictory statement shall constitute a breach of this plea agreement and Defendant thereafter would be subject to prosecution. Defendant agrees that the decision of whether any public statement by any such person contradicting Defendant's acceptance of responsibility or a fact contained in the Statement of Facts will be imputed to Defendant for the purpose of determining whether Defendant has breached this plea agreement shall be at the sole discretion of the United States. Should the United States decide that a public statement made by any such person contradicts in whole or in part Defendant's acceptance of responsibility or a factual statement in the Statement of Facts, the United States shall notify Defendant in writing as set forth in Section XXI. Defendant may avoid a breach of this plea agreement by publicly repudiating such statement within two business days after receipt of such written notification. This paragraph does not apply to any statement made by an individual currently or formerly employed by Defendant in the course of any criminal, regulatory, or civil case initiated against such individual, unless such individual is speaking on Defendant's behalf. Defendant, and its parent company and any entity related to Defendant, shall be permitted to raise defenses and to assert affirmative claims in other civil proceedings brought by private parties in the United States or any other proceeding brought outside of the United States relating to the matters set forth in the Statement of Facts, provided that such defenses and claims are consistent, in whole or in part, with the provisions set forth in this section.

XII
COOPERATION AND DISCLOSURE REQUIREMENTS

Defendant agrees to continue cooperating fully with the United States, and with any other agency designated by the United States, in investigating Defendant and any of its present and former officers, employees, consultants, contractors, and subcontractors in all matters. The obligations under this Section shall continue for four years. Defendant agrees, that its cooperation pursuant to this paragraph shall include, but not be limited to, the following:

A. Complete and truthful disclosure of all non-privileged information as may be requested by the United States with respect to the activities of Defendant and its affiliates, and its present and former officers, employees, consultants, contractors, and subcontractors, concerning all matters inquired into by the United States. This obligation shall not include disclosure of materials covered by the attorney-client privilege or the work product doctrine or other applicable privilege;

B. Assembling, organizing, and producing (in any method and format requested by the United States) any and all non-privileged relevant documents, records, electronic data, or other tangible evidence in Defendant's possession, custody, or control concerning all matters inquired into and materials requested by the United States. Whenever such data is in electronic format, Defendant shall provide access to such data and assistance in operating computer and other equipment as necessary to retrieve data. This obligation shall not include production of materials covered by the attorney-client privilege or the work product doctrine or other applicable privilege;

C. Using Defendant's best efforts to facilitate the availability of its present and former officers, employees, consultants, contractors, and subcontractors to provide information and testimony as requested by the United States, including, but not limited to, sworn testimony in any proceeding and interviews with law enforcement authorities as requested;

D. Providing testimony, certification, or other information to identify or establish the original location, authenticity, or other evidentiary foundation necessary to admit into evidence documents in any proceeding;

E. Identifying witnesses who, to Defendant's knowledge, may have material information regarding the matters under investigation. With respect to any information, testimony, document, record, or other tangible evidence provided to the

United States pursuant to this plea agreement, Defendant consents to any and all disclosures to other government agencies of such materials as the United States, in its sole discretion, deems appropriate;

F. Bringing to the attention of the United States: (i) all non-frivolous allegations of criminal conduct by Defendant or any of its employees acting within the scope of their employment related to any federal crime, as to which Defendant's board of directors, officers, senior management or legal and compliance personnel are aware; (ii) any administrative, regulatory, civil, or criminal proceeding or investigation of Defendant relating to the United States' investigation of Defendant's BSA/AML compliance program and conduct described in the Statement of Facts; and

G. Committing no crimes under the federal laws of the United States subsequent to the execution of this plea agreement.

XIII
REMEDIATION

Defendant, through its current board of directors and executive managers, has made substantial efforts, and expended significant resources, to remediate the criminal conduct and BSA/AML program deficiencies described in the Statement of Facts, and has implemented material improvements to its BSA/AML program.

In light of the foregoing, the United States agrees to recommend no additional remedial measures as a condition of Defendant's probation, including, but not limited to, a recommendation that Defendant not be subject to a monitor.

XIV
DEFENDANT WAIVES APPEAL AND COLLATERAL ATTACK

Defendant waives (gives up) all rights to appeal and to collaterally attack every aspect of the conviction and sentence. The only exception is that Defendant may collaterally attack the conviction or sentence on the basis that Defendant received ineffective assistance of counsel. If Defendant appeals, the United States may support on appeal the sentence actually imposed.

XV
WAIVER OF RIGHTS TO REQUEST RECORDS

Defendant waives (gives up) all rights to request or to receive from any government department or agency any records pertaining to the investigation or prosecution of this case, including without limitation any records that may be sought under the Freedom of Information Act, 5 U.S.C. § 552, or the Privacy Act, 5 U.S.C. § 552a.

XVI
BREACH OF THE PLEA AGREEMENT

Defendant and Defendant's attorneys know the terms of this plea agreement and shall raise, before the sentencing hearing is complete, any claim that the United States has not complied with this plea agreement. Otherwise, such claims shall be deemed waived (that is, deliberately not raised despite awareness that the claim could be raised), cannot later be made to any Court, and if later made to a Court, shall constitute a breach of this plea agreement.

Defendant breaches this plea agreement if Defendant violates or fails to perform any obligation under this plea agreement, including, but not limited to, the following:

A. Failing to appear in court;

B. Failing to truthfully admit a complete factual basis as set forth in the Statement of Facts at the time the plea is entered or falsely denying or making any statement inconsistent with the Statement of Facts;

C. Falsely denying prior criminal conduct or convictions;

D. Being untruthful with the United States, the Court, or the Probation Office;

E. Failing to plead guilty pursuant to this plea agreement;

F. Attempting to withdraw the plea;

G. Failing to abide by any Court order related to this case;

H. Appealing (which occurs if a notice of appeal is filed) or collaterally attacking the conviction or sentence;

I. Failing to fully cooperate, as set forth in Section XII;

J. Failing to timely and fully comply with the Forfeiture Addendum;

K. Engaging in additional criminal conduct before the end of any term of probation imposed by the Court.

In addition to any other remedy, if Defendant breaches this plea agreement, Defendant will not be able to enforce any provisions, and the United States will be relieved of all its obligations under this plea agreement. For example, the United States may proceed to sentencing but recommend a different sentence than what it agreed to recommend above. Or the United States may pursue any charges including those that were not filed as a result of this plea agreement, and Defendant agrees that any statute of limitations relating to such charges is tolled from the date Defendant signs the plea agreement through the end of the Stipulated Probation Term. Defendant also waives (gives up) any double jeopardy defense to such charges. Moreover, the United States may move to set aside Defendant's guilty plea. Defendant may not withdraw the guilty plea based on the United States' pursuit of any such remedy for Defendant's breach.

Defendant agrees that the decision whether conduct or statements of any individual acting on behalf or speaking on behalf of Defendant will be imputed to Defendant for the purpose of determining whether Defendant has knowingly violated any provision of this plea agreement shall be in the sole discretion of the United States. Should the United States determine that Defendant has breached the plea agreement, the United States will provide written notice to Defendant of the alleged breach in the manner set forth in Section XXI.

If Defendant breaches this plea agreement: (i) any statements made by Defendant under oath, at the guilty plea hearing (before either a Magistrate Judge or a District Judge) and at the sentencing hearing; (ii) the Statement of Facts, filed concurrently herewith and incorporated by reference herein; and (iii) any evidence derived from such statements, are admissible against Defendant in any prosecution of, or any action against, Defendant, any direct or indirect affiliate, or any successors or assigns. This includes the prosecution of the charge that is the subject of this plea agreement or any charge(s) that the prosecution agreed to not file as part of this plea agreement, but later pursues because of a breach by

Defendant. Additionally, Defendant knowingly, voluntarily, and intelligently waives (gives up) any argument that the statements and evidence derived from the statements should be suppressed, cannot be used by the United States, or are inadmissible under the United States Constitution, any statute, Rule 410 of the Federal Rules of Evidence, Rule 11(f) of the Federal Rules of Criminal Procedure, and any other federal rule.

XVII
CONTENTS AND MODIFICATION OF AGREEMENT

This plea agreement embodies the entire agreement between the parties and supersedes any other agreement, written or oral. No modification of this plea agreement shall be effective unless in writing, signed by all parties. There are no agreements, representations, or understandings between the parties in this case, other than those explicitly set forth in this plea agreement and the attachments and Exhibits hereto.

XVIII
DEFENDANT AND COUNSEL FULLY UNDERSTAND AGREEMENT

By signing this plea agreement, Defendant certifies that the board of directors, the Chief Executive Officer of RNA, and the General Counsel of RNA, among others, have read it (or that it has been read to same in each of his/her/their native language where necessary) and discussed its terms with defense counsel and fully understands its meaning and effect. Defendant acknowledges that it has accepted this plea agreement and decided to plead guilty because it is in fact guilty of the charged offense.

By virtue of the resolution of Defendant's board of directors (attached hereto as Exhibit C), affirming that the board of directors has authority to enter into this plea agreement and has: (1) reviewed the Information in this case, the Statement of Facts, and the proposed plea agreement or has been advised of the contents thereof; (2) consulted with legal counsel in connection with the matter; (3) voted to enter into this plea agreement and to admit to the attached Statement of Facts; (4) voted to authorize Defendant to plead guilty to the charge specified in the Information; (5) voted to comply with the Forfeiture Addendum; and (6) voted to authorize the corporate officer identified below to execute this plea agreement and all other documents necessary to carry out the provisions of this plea agreement. Defendant agrees that a duly authorized corporate officer for Defendant shall appear on behalf of Defendant and enter the guilty plea and will also appear for the imposition of sentence.

XIX
DEFENDANT SATISFIED WITH COUNSEL

Defendant, through certain executive managers and its board of directors, has consulted with counsel and is satisfied with counsel's representation. This is Defendant's independent opinion, and Defendant's counsel did not advise Defendant, any of its executive managers, or its board of directors, about what to say in this regard.

XX
SUCCESSOR LIABILITY

This plea agreement shall bind Defendant, its subsidiaries, affiliated entities, assignees, and its successor corporation if any, and any other person or entity that assumes the obligations contained herein. No change in name, change in corporate or individual control, business reorganization, change in ownership, merger, change of legal status, sale or purchase of assets, divestiture of assets, or similar action shall alter Defendant's obligations under this plea agreement. Defendant shall not engage in any action to seek to avoid the obligations set forth in this plea agreement.

XXI
NOTICE

Any notice under this plea agreement shall be made by personal, overnight delivery by a recognized delivery service, or registered or certified mail, for the United States to (1) the Chief – Major Frauds and Public Corruption Section, United States Attorney's Office, Room 6293, 880 Front Street, San Diego, California 92101; and (2) Chief, Money Laundering and Asset Recovery Section, Department of Justice, Criminal Division, 1400 New York Avenue, N.W., Washington, District of Columbia 20005; and for Defendant to RABOBANK, National Association, c/o James G. Cavoli and Tawfiq S. Rangwala, Milbank, Tweed, Hadley & McCloy LLP, 28 Liberty Street, New York, NY US 10005-1413.

DATED: February 5, 2018

ADAM L. BRAVERMAN
United States Attorney
Southern District of California

JOSEPH S. GREEN
Chief, Major Frauds and Public Corruption Section
ERIC BESTE, Deputy Chief

DANIEL C. SILVA
MARK W. PLETCHER
DAVID J. RAWLS
Assistant U.S. Attorneys

DATED: February 5, 2018

DEBORAH L. CONNOR
Acting Chief, Money Laundering and Asset Recovery Section

JENNIFER E. AMBUEHL
Deputy Chief, Bank Integrity Unit

KEVIN G. MOSLEY
MARIA K. VENTO
Trial Attorneys

JAMES G. CAVOLI
TAWFIQ S. RANGWALA
Milbank, Tweed, Hadley & McCloy LLP
Attorneys for Rabobank, National Association

IN ADDITION TO THE FOREGOING PROVISIONS TO WHICH I AGREE, I SWEAR UNDER PENALTY OF PERJURY THAT THE FACTS IN THE ATTACHED "STATEMENT OF FACTS" ARE TRUE.

DATED: February 5, 2018

Lynette I. Hotchkiss
Acting General Counsel
RABOBANK, NATIONAL ASSOCIATION

COMPANY OFFICER'S CERTIFICATE

I, Lynette I. Hotchkiss, certify that I am the Acting General Counsel for Defendant, Rabobank, National Association.

I have read this agreement and carefully reviewed every part of it with outside counsel for Rabobank, National Association who also reviewed it with authorized representatives of RNA's parent company, Coöperatieve Rabobank U.A. I understand the terms of the foregoing agreement, and the attachments and Exhibits hereto, and voluntarily agree, on behalf of Rabobank, National Association, to each of its terms. Before signing this agreement, I consulted outside counsel for Rabobank, National Association. Counsel fully advised me of Rabobank, National Association's rights, of possible defenses, of the relevant Guidelines' provisions, and of the consequences of entering into this agreement.

I have further carefully reviewed the terms of this agreement, and the attachments and Exhibits hereto, with Rabobank, National Association's board of directors. I have caused Rabobank, National Association's outside counsel to advise its board of directors fully of Rabobank, National Association's rights, of possible defenses, of the relevant Sentencing Guidelines' provisions, and of the consequences of entering into this agreement.

I am further authorized to acknowledge on behalf of Rabobank, National Association that these documents fully set forth Rabobank, National Association's agreement with the United States, and that no additional promises or representations have been made to Rabobank, National Association by any officials of the United States in connection with the disposition of this matter, other than those set forth in this agreement, and the attachments and Exhibits hereto. Furthermore, no one has threatened or forced me, or, to my knowledge, any person authorizing this agreement on Rabobank, National

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Association's behalf, in any way to enter into this agreement. I am satisfied with outside counsel's representation in this matter.

DATED: February 5, 2018

Lynette I. Hotchkiss
Acting General Counsel
RABOBANK, NATIONAL ASSOCIATION

CERTIFICATE OF COUNSEL

I am counsel for Rabobank, National Association in the matter covered by this agreement. In connection with such representation, I have examined relevant Rabobank, National Association documents and have discussed the terms of this agreement with Rabobank, National Association's board of directors. I have fully advised them of Rabobank, National Association's rights, of possible defenses, of the relevant Guidelines' provisions, and of the consequences of entering into this agreement.

Based on our review of the foregoing materials and discussions, I am of the opinion that Lynette I. Hotchkiss, the representative of Rabobank, National Association, has been duly authorized to enter into this agreement on Rabobank, National Association's behalf; that this agreement has been duly and validly authorized, executed, and delivered on Rabobank, National Association's behalf; and that this agreement is a valid and binding obligation of Rabobank, National Association. To my knowledge, Rabobank, National Association's decision to enter into this agreement, based on the authorization of the board of directors of Rabobank, National Association, is an informed and voluntary one.

DATED: February 5, 2018

JAMES G. CAVOLI
TAWFIQ S. RANGWALA
Milbank, Tweed, Hadley & McCloy LLP
Attorneys for Rabobank, National Association

SUCCESSOR IN INTEREST AGREEMENT

The undersigned individuals verify, under penalty of perjury under the laws of the United States of America, that the following is true and correct:

1. Wiebe Draijer, Petra van Hoeken, Bas Brouwers, and Berry Marttin (the "Delegates") are members of the Managing Board of Coöperatieve Rabobank U.A. ("CRUA").

2. Rabobank, National Association ("RNA") is an indirect subsidiary of CRUA.

3. The Delegates have been delegated authority by the Managing Board of CRUA to, among other things, approve, agree, and consent to all terms of settlement of the pending investigation by the U.S. Department of Justice ("DOJ") relating to RNA's BSA/AML compliance program and interactions by certain RNA employees with the OCC in March and April 2013.

4. We have read this plea agreement and carefully reviewed every part of it with outside counsel for CRUA. Outside counsel has also advised us fully of RNA's rights, of possible defenses and strategies, of the relevant Sentencing Guidelines provisions that apply to RNA, and of the consequences of RNA entering into the plea agreement. We have also read this Successor In Interest Agreement carefully, and consulted with outside counsel thereon.

5. We, therefore, understand the terms of the plea agreement, and the attachments and Exhibits thereto, including this Successor In Interest Agreement, and voluntarily agree, on behalf of CRUA, that should RNA sell, merge, or transfer all or substantially all of its business operations (whether such sale is structured as a stock or asset sale, merger, or transfer) to CRUA, any of its subsidiaries, affiliated entities, assignees, or its successor corporation, if any, such that it effectively ceases to do business as RNA, whether or not the RNA entity remains in existence, CRUA shall immediately thereupon assume, as its successor in interest, each and every one of RNA's obligations under this plea agreement. Should RNA sell, merge, or transfer all or substantially all of its business operations (whether such sale is structured as a stock or asset sale, merger, or

transfer, or otherwise effectively ceases to do business as RNA, whether or not the RNA entity remains in existence) to any entity except CRUA, any of its subsidiaries, affiliated entities, assignees, or its successor corporation, if any, CRUA shall immediately thereupon assume, with the exception of the obligations set forth in Sections X.B., XII.G., and XVI.K of this plea agreement, each and every one of RNA's obligations under this plea agreement, as its successor in interest, including, but not limited to, the forfeiture obligation, to pay the prescribed monetary penalty, and to cooperate fully with the DOJ.

6. All of the Delegates must together agree on signing this Successor In Interest Agreement, and all have done so, and such joint consent may be confirmed by the signature of at least two Delegates.

DATED: February 5, 2018 ______________________
Wiebe Draijer

DATED: February 5, 2018 ______________________
Petra van Hoeken

DATED: February 5, 2018 ______________________
Bas Brouwers

DATED: February 5, 2018 ______________________
Berry Marttin

EXHIBIT A – STATEMENT OF FACTS

1. Rabobank, National Association ("RNA" or "Defendant") is a California-based national bank, and a subsidiary of Coöperatieve Rabobank U.A. ("RaboGroup"), a Dutch multinational banking and financial services company headquartered in Utrecht, Netherlands. Through 2013, Defendant operated no less than 100 branches throughout California, including several in Imperial County, within the Southern District of California. Due to their proximity to the U.S.-Mexico border, Defendant knew the Imperial County branches, and the accounts opened and managed therein, were exposed to a heightened risk of being used and involved in receiving, transmitting, and laundering proceeds of criminal activity generated from narcotics trafficking and other illicit activity.

2. The Bank Secrecy Act ("BSA"), Title 31, United States Code, Section 5311 *et seq.*, required Defendant, among other things, to implement and maintain an anti-money laundering compliance program ("BSA/AML program") reasonably designed to (a) detect suspicious activity indicative of money laundering and other crimes and (b) assure and monitor compliance with the BSA's recordkeeping and reporting requirements, including the requirement to report to the Department of the Treasury any "suspicious transactions relevant to a possible violation of law or regulation." Such reports, referred to as "suspicious activity reports" or "SARs," are required under Title 31, United States Code, Section 5318(g)(1), and the regulations thereunder.

3. The Department of the Treasury's Office of the Comptroller of the Currency ("OCC") was Defendant's primary regulator, with a mission to ensure that national banks operate in a safe and sound manner, provide fair access to financial services, treat customers fairly, and comply with applicable laws and regulations. The OCC's nationwide staff of bank examiners conducts on-site reviews of national banks and provides sustained supervision of these institutions' operations. At all relevant times, the OCC had jurisdiction to examine Defendant's BSA/AML program. During such examinations, the OCC relies on the regulated financial institution, and the regulated financial institution is obligated, to provide all requested materials and to respond truthfully to any questions or inquiries. If

the OCC uncovers significant deficiencies at a regulated financial institution, it has the power to take administrative action against the institution and impose various sanctions, including enhanced oversight and control, "Cease and Desist" orders, civil monetary penalties, and, in egregious situations, revocation of the financial institution's charter.

4. As set forth below, at all relevant times, Defendant acted through its officers, directors, employees, and agents, including Executives A, B, and C, and Manager A, who were at all relevant times acting within the scope of their employment with Defendant.

5. Defendant, Executive A, Executive B, Executive C, Manager A, and others knew the OCC had sanctioned Defendant for its BSA/AML program deficiencies in 2006 and 2008 through, respectively, a Memorandum of Understanding ("2006 MOU") and a Formal Agreement ("2008 Formal Agreement"). Through certain of its managers and employees, Defendant knew that deficiencies in its BSA/AML program continued through 2012.

6. Defendant further knew that its BSA/AML program failures between 2009 and 2012 included implementing policies and procedures that precluded and suppressed investigations by Defendant's Monitoring and Investigations Unit ("M&I Unit") into potentially suspicious transactions by RNA accountholders or by persons conducting transactions on behalf of RNA accountholders, that may have been involved in money laundering or other illegal conduct. This preclusion and suppression of investigations resulted in the M&I Unit not properly monitoring, investigating, and reporting potentially suspicious transactions that were identified by Defendant's electronic monitoring software program called GlobalVision Patriot Officer ("GVPO").

7. GVPO identified, among other things, transactions by customers and through accounts deemed to be "High-Risk" and that Defendant knew were suspicious, as similar transactions had been the subject of prior SARs filed by Defendant. These High-Risk customers and accounts included those controlled and managed by Mexican businesses, nonresident aliens, and U.S.-based accountholders who transacted hundreds of millions of dollars in untraceable cash, sourced from Mexico and elsewhere, into and through RNA

accounts. The RNA accounts through which this cash was deposited and transferred were primarily located and otherwise managed at Defendant's Calexico and Tecate branches located in the Southern District of California.

8. By no later than June 2010, Defendant was aware that the activity of certain of these High-Risk customers, including their corresponding cash transactions, and the associated wire transfer activity, were indicative of international narcotics trafficking, organized crime, and money laundering. Despite this risk, Defendant solicited businesses and individuals conducting these transactions, even though, as Executive A acknowledged in a communication with the Calexico branch management, Defendant could not confirm how the cash was derived and lacked the sophistication or resources to perform the ongoing due diligence that would be required to mitigate the risk.

9. From in or about 2009 until 2012, these suspicious transactions generated repeated GVPO alerts for potential money laundering and other illegal activity. As a result of its ongoing BSA/AML program failures, Defendant failed to adequately monitor and conduct adequate investigations into these transactions and submit SARs to the Financial Crimes Enforcement Network ("FinCEN"), as required by the BSA.

10. As a result of these BSA/AML program failures, certain RNA customer accounts were involved in not less than $368,701,259 in suspicious transactions that were either unreported or reported untimely, involving high-volume cash deposits and withdrawals, checks, electronic transfers, and wire transfers. Defendant does not dispute that these transactions involved funds that were the proceeds of, or traceable to, unlawful conduct such as international narcotics trafficking, organized crime, and money laundering. The money laundering conducted through RNA customer accounts included specific cross-border variations like trade-based money laundering, black market peso exchange, bulk cash smuggling, and structuring.

11. Starting no later than March 2013 and continuing through in or about April 2013, Defendant, Executive A, Executive B, and Executive C conspired to impair, impede, and obstruct the OCC's lawful functions and to corruptly obstruct the OCC's 2012

examination of Defendant's BSA/AML program, in an effort, among other things, to conceal its ongoing BSA/AML program failures, including its failure to file required SARs, and to prevent the OCC from again sanctioning it for those BSA/AML program failures.

12. During and in furtherance of the conspiracy, Defendant, Executive A, Executive B, and Executive C, agreed to, among other things:

a. Knowingly respond to the OCC's February 2013 draft letter to Defendant detailing its initial examination findings with false and misleading information about the state of the Defendant's BSA/AML compliance program; and

b. Make false and misleading statements to the OCC regarding the existence of reports developed by a third-party consultant ("the Consultant"), which corroborated the OCC's findings regarding the ineffectiveness of Defendant's BSA/AML program.

Relevant Entities and Individuals

13. Executive A, a co-conspirator known to the parties, was a high-level executive at Defendant who, at all relevant times, had authority to bind Defendant. Executive A's responsibilities included management of Defendant's BSA/AML compliance program. Before joining Defendant, Executive A served as an OCC examiner in connection with the OCC's examinations of RNA. In or about September 2015, Defendant terminated Executive A's employment for certain conduct described herein.

14. Executive B, a co-conspirator known to the parties, was a high-level executive at Defendant who, at all relevant times, had authority to bind Defendant. Defendant terminated Executive B's employment in or about September 2015 for certain conduct described herein.

15. Executive C, a co-conspirator known to the parties, was a high-level executive at Defendant who, at all relevant times, had authority to bind Defendant. Defendant, as a result of conduct described herein, allowed Executive C to resign his position by December 1, 2015 and retire by the end of 2015.

16. George Martin (charged elsewhere) was hired in or about August 2007 as the

AML Monitoring and Investigations Manager, notwithstanding the fact he had no prior BSA/AML experience. Martin served in that role until in or about April 2012 when Defendant terminated his employment, in part, for conduct described herein. His duties as AML M&I Unit manager included supervising the unit, directing investigations, and reporting suspicious activity in accounts held at RNA.

17. From in or about March 2009 until his termination, Martin was supervised by Manager A, whose duties included making sure Defendant conducted adequate BSA/AML investigations and properly reported suspicious activity. In or about March 2013, Manager A was demoted multiple times due to the deficiencies identified in the BSA/AML program that he managed.

<u>Defendant's Continuing BSA/AML Program Failures</u>

18. Defendant and the OCC entered into the 2006 MOU after Executive A, while acting as an examiner for the OCC, identified numerous and significant weaknesses in Defendant's BSA/AML program. During subsequent reviews, the OCC identified a number of continuing deficiencies in branches located within the Southern District of California and elsewhere, including training deficiencies, inaccurate and incomplete SARs, and as the December 4, 2007 OCC Supervisory Letter indicated, "ongoing and new weaknesses in management oversight and internal controls" and failure to implement procedures "to identify, monitor, and investigate large cash transactions for evidence of suspicious activity." After these reviews, the OCC and Defendant entered into the 2008 Formal Agreement, which mandated improvements in BSA Audit, BSA training, BSA Officer and Staff, and BSA Internal Controls at Defendant.

19. Executive A left the OCC and was hired by Defendant in or about February 2008. Approximately a year and a half later, Defendant was informed by the OCC, in or about September 2009, that it would be released from the 2008 Formal Agreement notwithstanding the fact that, according to those working in transaction monitoring at the time, the BSA function did not materially change during the time the Formal Agreement was in place.

20. During certain periods in 2011, the M&I Unit had only two people to handle investigations and only three analysts to monitor and manage thousands of monthly alerts. In other words, during those particular periods, three people were tasked with reviewing approximately 2,300 alerts per month and two people were tasked with conducting more than 100 investigations per month, including approximately 75 customers per month for whom SAR determinations had to be made.

Despite Known Risks, Defendant Pursued Cash-Intensive Mexican Customers

21. On or about June 15, 2010, the Mexican government announced new anti-money laundering regulations that restricted the amounts of physical cash denominated in U.S. dollars that Mexican banks could receive. According to FinCEN guidance, Mexico adopted the regulations to "mitigate risks of laundering proceeds of crime tied to narcotics trafficking and organized crime."

22. Following the June 15, 2010 announcement of the Mexican government, Martin noted for a number of Defendant's employees, including Manager A and Executive A, that the Mexican government's latest restrictions on cash deposits made in Mexican banks would likely lead to increased cash deposits at Defendant's border branches in the Southern District of California.

23. The border branches, including those located in Calexico and Tecate, were heavily dependent on cash deposits from Mexico. Communications between the branch and compliance personnel indicate that Defendant knew these cash deposits at these branches were likely tied to narcotics trafficking and organized crime. In particular, the Calexico branch, located about two blocks from the U.S.-Mexico border, was the highest performing branch in the Imperial Valley region due to cash deposits from Mexico.

24. The year after the Mexico cash restrictions went into effect, Defendant's Calexico and Tecate branches had a 25% and 22% increase in new account growth, respectively. Defendant's records suggest that this growth occurred, in part, because Defendant took on cash deposits it understood Mexican banks no longer could accept. Documents also show that when another large domestic bank closed accounts held by

Mexican nationals and businesses in the Southern District of California, Defendant experienced a large influx of money to its border branches and began looking to further solicit this business.

25. Defendant continued this practice of soliciting cash-intensive customers from Mexico while failing to employ appropriate BSA/AML policies and procedures to address the heightened risk until in or about May 2013, when executive management placed a moratorium on originating new account relationships for Mexico-based business entities.

Defendant Failed to Adequately Investigate and Report Suspicious Activity.

26. Through Martin and Manager A, Defendant developed and implemented policies and procedures that precluded and suppressed investigations into suspicious transactions that were occurring at Defendant's branches, including at branches located in the Southern District of California.

27. Defendant, through Martin and others, including Manager A, instructed Defendant's Financial Intelligence Unit staff to resolve or "clear" GVPO suspicious activity alerts at a per-day rate that Martin knew was impossible for M&I Unit personnel to both meet the review requirements and conduct adequate BSA/AML investigations into those suspicious customer transactions.

28. In order to meet these unrealistic performance metrics, Defendant created and implemented a number of policies and procedures that prevented adequate investigations into suspicious customer activity, including at branches located in the Southern District of California, identified by GVPO. Among them were (1) the "Verified List" and (2) the "Security CMIR Mitigation Policy."

29. In implementing the Verified List, Martin and Manager A improperly instructed staff that if a customer was "verified," no further review was necessary even when that customer's activity changed from the activity that Defendant had "verified." In communications with BSA/AML staff, Martin and Manager A also instructed them to aggressively increase the number of bank accounts on the Verified List.

30. Before the OCC lifted the 2008 Formal Agreement in 2009, Defendant had a

list of less than ten verified customers. As a result of these policies and procedures, by 2012, Defendant had more than 1,000 "verified" customers. By aggressively placing customers on the Verified List and significantly limiting scrutiny into their transactions, Defendant increased the risk that it would fail to file SARs on suspicious transactions. As a result, High-Risk customers, including one of the Calexico branch's biggest depositors, conducted at least $100 million in suspicious transactions without a SAR being filed or accounts being timely closed.

31. Defendant used the Security CMIR Mitigation policy to justify the deliberate failure to investigate or file SARs on suspicious cross-border movements of cash effected by certain of Defendant's customers or their agents, including at branches located in the Southern District of California. For example, when a customer tried to explain hundreds of thousands of dollars in structured cash withdrawals as a way to transport cash across the U.S.-Mexico border without filing Reports of International Transportation of Currency or Monetary Instruments ("CMIRs") at the border, Defendant used this as an inappropriate justification to not file SARs on transactions at its branches, including branches located in the Southern District of California.

32. As another example, one of Defendant's business customers, based in Tecate, engaged in suspicious cash activity, including multiple cash withdrawals in structured amounts, throughout the time Defendant maintained its accounts. From in or about 2009 to in or about 2012, various individuals withdrew more than $1 million per year in cash, often at the Tecate branch in $9,500 increments – just below the $10,000 CMIR threshold – at different times on the same day. At the time, Defendant was aware that the structured, unreported, and untraceable cash from these withdrawals was then taken into Mexico.

33. Despite being aware of the suspicious nature of the customer's transactions by virtue of having filed SARs on the customer's structuring activity between 2004 and 2009, Defendant failed to file SARs on the customer's structuring between in or about 2010 and in or about August 2012. In total, no less than $7.3 million in cash withdrawals were structured between in or about 2009 and in or about July 2013, when Defendant finally

closed the account.

34. Defendant also failed to file SARs on transactions often associated with money laundering and drug trafficking. For example, a Calexico branch customer was involved in the black market peso exchange, wherein criminal organizations launder U.S. dollars through U.S businesses through seemingly legitimate transactions such as buying and selling pesos, and often evidenced by account activity showing numerous, repeated cash deposits followed by international wire transfers. Despite being made aware in an e-mail on or about February 24, 2010, that this Calexico branch customer was "using [the Calexico branch] staff resources to count and deposit (filtering) ... cash only to have the customer wire the money out to casa de cambios [sic] in Mexico on the following day of the deposit," Martin and Manager A decided to leave the account open because the Calexico branch wanted to pursue additional business from the customer.

35. On or about August 26, 2011, Martin notified Manager A that the accounts held by the customer and its owners were seized pursuant to a court order and the owners were "suspected of being participants in a major drug smuggling and money laundering operation." Martin elaborated:

> Apparently, the drug cartels are using these accounts and couriers to smuggle millions in USD of illicit proceeds from Mexico, into the US, and repatriating those funds to Mexico at casas de cambio in Mexicali....

36. Despite the seizure of funds in the accounts for suspected money laundering, Defendant left the customer's accounts open until December 2011 and did not file its first SAR on the customer until approximately ten months later, in or about October 2012.

<u>Executive D Warned Defendant's Management of its BSA/AML Program Failures</u>

37. In or around July 2012, Executive A was promoted to a position within RaboGroup in the Netherlands and Defendant hired Executive D to replace Executive A in her role, which included responsibility for management of Defendant's BSA/AML program.

38. Almost immediately, Executive D learned that Defendant's BSA Department

had stopped filing SARs on continuing activity it had previously reported. Of particular concern were the Calexico and Tecate branches that held deposits of Defendant's High-Risk Mexico-based customers.

39. On or about September 10, 2012, Executive D alerted Executives B and C about her concerns. Executive D gave a more complete report of her concerns, on or about October 3, 2012, in a presentation to Defendant's Executive Management Group.

40. In making her report, Executive D also warned Defendant's Executive Management Group that, in addition to taking enforcement actions against large banks

> the OCC also is finding a rising number of BSA/AML problems in, and taking appropriate supervisory and enforcement actions against, midsize and community institutions, for problems that include ineffective account monitoring, inadequate tracking of certain high risk customers and bulk cash transactions, and lapses in monitoring suspicious activity.

Defendant Retains the Consultant to Perform a BSA/AML Program Assessment

41. In approximately December 2012, in part because of the deficiencies known by Defendant's management, Defendant retained the services of the Consultant, a public accounting, consulting, and technology firm that provided tax, advisory, risk, and performance services to financial institutions, to perform a program assessment of Defendant's BSA/AML program.

42. The Consultant conducted its BSA/AML program assessment for Defendant between approximately December 2012 and January 2013. As part of its assessment, the Consultant prepared several documents for Defendant and worked with Defendant's senior management to finalize each of the documents, including: (i) "Rabobank Anti-Money Laundering Program Assessment and Roadmap Executive Report;" (ii) "Rabobank Anti-Money Laundering Staffing Assessment – Executive Report;" (iii) "Rabobank AML Program Roadmap"; and (iv) "High Level Roadmap" (collectively, the "Consultant's Reports").

43. The Consultant's Reports noted various deficiencies in Defendant's

BSA/AML program, including among others:

a. Failures in Defendant's High-Risk customer management program;

b. The obvious deficiencies, known by Defendant, both in the total number and substandard qualifications of BSA/AML program staff;

c. Defendant's continued failure to maintain a strong "Culture of Compliance," in that Defendant seldom followed through with risk management practices, including, for example, lack of robust training for employees and lack of awareness of money laundering detection techniques;

d. Defendant's slowness in addressing significant backlogs of SAR filings and Enhanced Due Diligence reviews on its customers, transactions, and accounts; and

e. The inability of Defendant's AML department to recognize the most significant money laundering threats.

44. On or about January 31, 2013, the Consultant's lead analyst presented its findings, as set forth in the Consultant's Reports, to Defendant's Executive Management Group, including Executives B and C. On or about February 5, 2013, the Consultant's lead analyst presented the same information to Defendant's Board of Directors and the Board's Compliance Committee.

45. Between January 2013 and March 2013, Executives A, B, and C, and other RNA officers obtained and exchanged multiple versions of the Consultant A Reports.

Knowing Defendant's BSA/AML Problems, Defendant and its Senior Executives Conspired to Impair and Impede the OCC and to Obstruct the OCC's 2012 BSA/AML Program Examination

46. In or about November 2012, before Defendant retained the Consultant, the OCC started its annual BSA/AML program examination of Defendant as part of its 2012 supervisory cycle.

47. During an initial meeting with OCC examiners, Executive D made a substantially similar presentation to the one that she had previously delivered to Defendant's Executive Management Team in or about October 2012, regarding her

concerns about the deficient state of Defendant's BSA/AML program, in particular transactions originating at its branches located in the Southern District of California.

48. On or about February 8, 2013, the OCC sent a draft letter to Defendant detailing its initial findings (the "OCC's Initial Report"), in which it noted the findings were "not dissimilar to concerns covered by the former January 23, 2008 Formal Agreement," and it was "considering citing a violation of the Bank Secrecy Act for a deficient compliance program ... [and] whether the Bank has failed to maintain a compliance program reasonably designed to assure and monitor compliance with the Bank Secrecy Act, requiring the issuance of a Cease and Desist Order."

49. The potential for a cease-and-desist order raised concerns for Defendant, as such an adverse finding by the OCC would endanger Defendant's pending merger with another RaboGroup subsidiary – a merger that would result in a bank with total consolidated assets of $16.7 billion.

50. In or about February 2013, Defendant's senior management tasked Executive D with heading up Defendant's response to the OCC's Initial Report.

51. On or about February 22, 2013, Executive C e-mailed a RaboGroup executive explaining that he intended to ask Executive D not to join an upcoming OCC meeting, in part, because he did not want to "risk others contradicting our findings." On or about February 22, 2013, Executive C e-mailed a different RaboGroup executive, recommending that "we terminate [Executive D] as I do not have any confidence she will best represent the Bank going forward."

52. On or about February 25, 2013, Executive C called Executive D into his office and informed Executive D she would not be allowed to participate in a discussion with the OCC regarding the OCC's Initial Report. Instead, Executives A and B would now lead the response to the OCC.

53. The next day, Executive D wrote to Executives B and C, warning of the "exponential[ ]" risk Defendant faced if law enforcement focused on its suspicious cross-border activity in the Southern District of California. Executive D further warned that: "if

the Bank is found to be misleading, RNA will [face] far reaching consequences that will exceed any enforcement action."

54. On or about February 28, 2013, Executive C called Executive D into his office and informed her she was being placed on a leave of absence.

55. While on this mandated leave of absence, Executive D continued to send e-mails about the danger Defendant faced, including a March 6, 2013 e-mail to an RNA Board member suggesting the Board conduct its own inquiry of Defendant's BSA/AML program "particularly before representing to the OCC or any agency that the issues cited by RNA are limited and that the program is sound/effective."

56. Executive D remained on this leave of absence until in or about July 2013, when Defendant terminated her employment.

57. After Executive C removed Executive D from her role interacting with the OCC but before her formal termination, Executives A and B drafted Defendant's March 15, 2013 Response to the OCC's Initial Report (the "Response"), which included a number of false and misleading statements, including that:

a. Defendant's BSA/AML program functioned to identify issues as they arose in processing alerts and subpoenas, including transactions and accounts located within the Southern District of California, and management reacted appropriately to address personnel and resource allocation issues;

b. Defendant's Internal Audit at all times exercised its functions independently without any attempt by management to unduly influence the scope of the BSA audit; and

c. Defendant's BSA/AML training was properly designed and successfully met its goals.

58. After Defendant delivered its Response, the OCC BSA/AML examination team conducted additional interviews with Defendant personnel, including Defendant's branch staff located in the Southern District of California.

59. Additionally, as a part of the OCC's expanded BSA/AML program

examination, the OCC asked Defendant to produce the Consultant's Reports.

Defendant Provided False and Misleading Information and Omitted Material Information to the OCC in an Effort to Impair and Impede the OCC and to Obstruct the OCC's BSA/AML Examination

60. On or about March 21, 2013, an OCC examiner e-mailed Executive A asking for "a copy of the assessment report of the bank's BSA program that [the Consultant] was engaged to perform in January 2013."

61. That same day, Executive A forwarded the OCC's request to Executive B, writing, in part, "I think the right answer is that [the Consultant] did not perform an assessment. That while they were engaged to perform a market study/peer benchmark for management and the board, the project was shelved before any report could be issued."

62. After musing, "I wonder why they are asking for this now?", Executive B responded to Executive A, in part:

> To the best of my knowledge, [the Consultant] never provided a final report... They did produce a draft that was shared with management ...? My guess is that copies of the draft are floating around ... So I believe your statement is accurate, although should we say no 'final report was issued'? The obvious concern is they then ask for the draft from [the Consultant].

63. The next day, March 22, 2013, Executive A e-mailed Executive B a revised draft e-mail response to the OCC that continued to contain false and misleading statements, and which she forwarded to the OCC on the same day:

> [the Consultant] did not complete an assessment. While they were engaged to perform a market study/peer benchmark analysis for the benefit of management and the board, the project was suspended before any report was issued....we have recently asked [the Consultant] to assist us on several projects, including the BSA/AML risk assessment. We anticipate having a draft in time for the next board meeting in early May.

64. That same day, Executive C replied to Executive A, "[a] good response. I wonder where [the OCC examiner] heard [the Consultant] did a program assessment?"

65. Executive A responded to Executive C's e-mail that same day, confirming her awareness of the Consultant's Reports and what she would do if the OCC had them:

> [Executive D] mentioned it at the exit meeting in February in [San Francisco]. What I don't know is whether she took it upon herself to share the draft report. If I hear back from [the OCC] indicating they have a draft report, I'll schedule a call to discuss with her why we reject the initial conclusions.

66. In response, also on or about March 22, 2013, Executive C replied to Executives A and B, confirming his awareness of the Consultant's Reports and ratifying the false and misleading approach Executive A had taken in responding to the OCC, "Ok let's hope she did not provide a draft report. If she did your approach with [the OCC examiner] is a good one."

67. On or about March 25, 2013, the OCC again requested a copy of the Consultant's Reports:

> [I]t was our understanding that [the Consultant] provided management with a report or documents of some type related to BSA. We would like a copy of what bank management received from [the Consultant], even if it was only preliminary or partial.

68. Still on March 25, 2013, Executive A and Executive B exchanged e-mails about possession and distribution of the Consultant's Reports, and thereafter, Executive B sent Executive A additional versions of the Consultant's Reports that were the subject of the OCC's now repeated request.

69. On or about March 25, 2013, notwithstanding the fact that she had, and could have produced, the Consultant's Reports that the OCC had repeatedly requested, Executive A, consistent with a draft she had sent Executives B and C, e-mailed the OCC a benign document called "Rabobank-AML Program Enhancement Update 03-01-13," a forward-looking proposal prepared by the Consultant outlining some generic steps Defendant could take to enhance its BSA/AML program.

70. On or about April 8, 2013, the OCC Regional Manager called Executive C and asked Defendant to provide the OCC with any document that the Consultant produced during its assessment.

71. During the call, Executive C made false and misleading statements to the OCC Regional Manager. For example, Executive C said, as noted by the OCC Regional

Manager, that "[the Consultant] did not leave anything after their presentation, but that [Executive C] would work with [the Consultant] to get a copy" and that the assessment was not in line with Defendant's findings and so management had rejected it.

72. On or about April 11, 2013, Executive C e-mailed members of Defendant's senior management about the call with the OCC Regional Manager including, among others, an RNA Board Member and Executive A, conceding that they would be providing the OCC with the Consultant's Reports.

73. Thereafter, on or about April 18, 2013, Executive A e-mailed, among others, Executives B and C a draft of the "[the Consultant] Report Cover Memo," which, later that same day, accompanied Defendant's disclosure to the OCC of the Consultant A Reports it had been withholding. That e-mail and subsequent cover letter to the OCC contained a number of false and misleading statements, including:

a. "[One of the Consultant Reports], dated January 31, 2013, was provided only to [Executive D] with a copy to Legal Counsel. ... We are not aware of further distribution;" and

b. "Management now understands from correspondence sent to the OCC by [Manager B] that [Executive D] shared the document with her. We are not aware of further distribution."

74. These statements were false and misleading because the Consultant's Reports had been distributed to several people, including Executives A and B, before both the OCC's March 21, 2013 request and Defendant's response effectively denying its existence.

75. Defendant's April 18, 2013 letter to the OCC with its false and misleading statements was signed by Executive C, copying Executives A and B, among others.

76. Also in or about April 2013, Manager B reported her concerns about Defendant's BSA/AML compliance program to the OCC. Approximately two weeks later, Executive A demoted Manager B from her position.

EXHIBIT B – FORFEITURE ADDENDUM

The provisions of this Forfeiture Addendum are material terms of Defendant's plea agreement, and the Forfeiture Addendum is hereby incorporated into and made part of Defendant's plea agreement.

A. Property Subject to Forfeiture. Defendant agrees to forfeit $368,701,259 to the United States (the "Forfeited Assets"). The United States agrees to credit against the Forfeited Assets any payments made by Defendant in connection with its concurrent settlement of the related regulatory action brought by the Office of the Comptroller of the Currency of the Department of the Treasury (the "OCC"), not to exceed $50,000,000. Defendant shall transmit the Forfeited Assets, less any applicable credit for payment to the OCC, by wire transfer pursuant to instructions provided by the United States within 7 days after the date on which the plea agreement is signed. In the event Defendant fails to timely deliver the Forfeited Assets, the United States reserves all remedies available to it, including, but not limited to, vacating the plea agreement.

B. Basis of Forfeiture. As a result of Defendant's conduct, including the conduct set forth in the Statement of Facts, Defendant agrees that the United States could institute a civil forfeiture action, or issue charges with forfeiture allegations in a criminal indictment or information, against certain funds held by Defendant, and that such funds would be forfeitable pursuant to Title 18, United States Code, Sections 981 and 982, and Title 31 United States Code, Section 5317. Defendant warrants and represents as a material fact that it is the sole owner of the Forfeited Assets and that no other person or entity has any claim or interest in them. Defendant agrees that the facts set forth in the Statement of Facts and admitted to by Defendant establish that the Forfeited Assets are forfeitable to the United States pursuant to Title 18, United States Code, Sections 981 and 982, and Title 31 United States Code, Section 5317. Defendant admits the Forfeited Assets represent the amount of property traceable to or involved in violations of Title 18, United States Code, Sections 1956, 1957, and 1960, and Title 31, United States Code, Section 5324. Defendant further agrees that the Forfeited Assets can additionally be considered substitute assets for the purpose of forfeiture to the United States pursuant to Title 21, United States Code Section, 853(p), and Defendant releases any and all claims it may have to such funds.

C. Consent to Forfeiture. Defendant consents to the immediate forfeiture of the Forfeited Assets. Defendant agrees that its consent to forfeiture is final and irrevocable as to Defendant's interests in the Forfeited Assets. Defendant agrees to take all steps requested by the United States to pass clear title to the Forfeited Assets to the United States. Defendant further agrees to execute any document requested by the United States to facilitate the forfeiture of the Forfeited Assets, and to testify truthfully in any judicial forfeiture proceeding. Defendant further agrees not to contest or to assist any other person or entity in contesting the forfeiture of the Forfeited Assets. Defendant agrees that it shall not file any petitions for remission, restoration, or any other assertion of ownership or request for return relating to the Forfeited Assets, or any other action or motion seeking to collaterally attack the seizure, restraint, forfeiture, or conveyance of the Forfeited Assets, nor shall Defendant assist any others in filing any such claims, petitions, actions, or motions. Contesting or assisting others in contesting the forfeiture shall constitute a material breach of the plea agreement, relieving the United States of all its obligations under the plea agreement. Defendant shall not seek or accept, directly or indirectly, reimbursement or indemnification from any source with regard to the Forfeited Assets or any other payments for which the United States is giving Defendant credit toward the Forfeited Assets. Defendant agrees to sign any additional documents necessary to complete forfeiture of the funds.

D. Finality of Forfeiture. Defendant consents and agrees to the finality of the forfeiture of the Forfeited Assets. Defendant waives the requirements of Title 18, United States Code, Section 983, and any and all notices thereof related to forfeiture proceedings with respect to the Forfeited Assets. Defendant's payment of the Forfeited Assets is final and shall not be refunded or set aside or subject to collateral attack under any circumstances, including, but not limited to, the United States later determining that Defendant has breached the plea agreement and commencing prosecution of Defendant.

In the event of a breach of the plea agreement and subsequent prosecution, the United States is not barred from seeking forfeiture in an amount greater than the Forfeited Assets. However, the United States agrees that in the event of a breach and further prosecution, it will recommend to the Court that the amounts paid pursuant to this plea agreement and Forfeiture Addendum be credited toward any subsequent forfeiture the Court may impose as part of its judgment. Defendant understands that such recommendation will not be binding on the Court.

E. Taxes. Defendant agrees that it shall not claim, assert, or apply for, directly or indirectly, any tax deduction, tax credit, or any other taxable offset with regard to any federal, state, or local tax or taxable income for payments of any fine or of the Forfeited Assets pursuant to this plea agreement.

F. Waiver of Constitutional and Statutory Challenges. Defendant further agrees to waive all constitutional and statutory challenges, in any manner, without limitation (including direct appeal, habeas corpus, or any other means) to any forfeiture carried out in accordance with this plea agreement, including any claim that the forfeiture constitutes an excessive fine or punishment under the United States Constitution.

G. No Forfeiture Abatement. Defendant agrees that the forfeiture provisions of this plea agreement are intended to, and will, survive Defendant, notwithstanding the abatement of any underlying criminal conviction after the execution of this plea agreement and Forfeiture Addendum.

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H. Breach. Defendant's failure to fully and timely comply with any of the promises or obligations set forth in this Forfeiture Addendum will constitute an immediate, material breach of the plea agreement.

DATED: February 5, 2018

ADAM L. BRAVERMAN
United States Attorney
Southern District of California

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DATED: February 5, 2018

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Attorneys for Rabobank, National Association

DATED: February 5, 2018

Lynette I. Hotchkiss
Acting General Counsel
RABOBANK, NATIONAL ASSOCIATION

EXHIBIT C

RABOBANK NATIONAL ASSOCIATION
RESOLUTION OF BOARD OF DIRECTORS

WHEREAS, Rabobank, National Association ("RNA") has been subject to investigation by, and engaged in discussions with, the United States Department of Justice, Money Laundering and Asset Forfeiture Section, and the U.S. Attorney's Office, Southern District of California (together, the "DOJ"), in relation to the nature and quality of RNA's BSA/AML compliance program during the period from in or about 2006 through in or about 2012, and in relation to the veracity of communications between certain former employees and the OCC in or about March and April 2013 (the "DOJ Investigation"); and

WHEREAS, in order to resolve such discussions and the DOJ Investigation, it is proposed that RNA, among other things, enter into certain agreements with the DOJ;

WHEREAS, RNA's outside counsel has advised RNA and the RNA Board of Directors (the "Board") of RNA's rights, possible alternative strategies, defenses, and the consequences of entering into such agreements with the DOJ, and has fielded and answered questions regarding same;

WHEREAS, the Board has reviewed and/or been advised of the contents of : (1) a one-count Information, captioned *United States v. Rabobank, National Association* (S.D.C.A.), to be filed by the DOJ and charging RNA with a violation of 18 U.S.C. § 371, related to communications between certain former RNA employees and the OCC in March and April 2013; (2) a Waiver of Indictment related to the filing of the Information identified in Item (1), immediately above; (3) a Plea Agreement in *United States v. Rabobank, National Association* (S.D.C.A.), which agreement is related to the charge and conduct identified in the Information noted in Item (1), immediately above, and issues related to RNA's historical BSA/AML compliance program; (4) attachments to the Plea Agreement, including a Statement of Facts and a Forfeiture Addendum; and (5) a Consent to Rule 11 Plea in a Felony Case Before a U.S. Magistrate Judge;

WHEREAS, the Board has consulted with legal counsel in connection with this matter and the materials described above; and

WHEREAS, the Board of Directors of RNA (the "Board") has authority to cause RNA to enter into the Plea Agreement and authorize and direct the execution of the Plea Agreement and related materials;

Therefore, the Board has RESOLVED that:

1. RNA will and is hereby authorized and directed to: (1) enter into the proposed Plea Agreement; (2) admit to the Statement of Facts attached to the Plea Agreement; (3) plead guilty to the charge in the Information; and (4) comply with the terms the Forfeiture Addendum.

2. Lynette Hotchkiss, Acting General Counsel for RNA and Corporate Secretary for the Board, is authorized, empowered, and directed, on behalf of RNA, to sign and execute the Plea Agreement and all other documents necessary to carry out the provisions of the Plea Agreement, including, but not limited to, the Forfeiture Addendum, a Waiver of Indictment form, and Consent to Rule 11 Plea in a Felony Case Before a U.S. Magistrate Judge.

3. Lynette Hotchkiss also is authorized, empowered, and directed to appear on behalf of RNA and enter a plea of guilty in United States District Court to the Information described above, and to make such other court appearances, including for the imposition of sentence, that are reasonably necessary to carry out the terms of the Plea Agreement.

4. Any actions of Lynette Hotchkiss, 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 RNA.

Date: February 5, 2018

By: Elizabeth Stangeland

Elizabeth Stangeland
Assistant Corporate Secretary
Rabobank, National Association

RABOBANK, N.A.
SECRETARY'S CERTIFICATE

I, Elizabeth Stangeland, Assistant Corporate Secretary of Rabobank, National Association ("RNA"), hereby certify that:

1. I am the duly appointed and acting Assistant Corporate Secretary of RNA and I am presently serving in that capacity in accordance with the Bylaws of RNA;

2. The above resolutions were duly adopted by the Board of Directors of RNA at a special meeting duly noticed and held on [date]; and

3. The attached resolutions are presently in full force and effect and have not been revoked or rescinded as of the date hereof.

Dated: February 5, 2018

Elizabeth Stangeland
Elizabeth Stangeland
Assistant Corporate Secretary
Rabobank, National Association