

# Settlement Agreement

## Parties

1. **The State of the Netherlands** (Netherlands Public Prosecution Service, in this matter the National Office for Serious Fraud, Environmental Crime and Asset Confiscation and the National Office), having its seat in The Hague and in this matter legally represented by the public prosecutors A. Rogaar and F. Heus, employed at the aforementioned Public Prosecutor's Offices, choosing as their address for service IJdok 163 (1013 MM) in Amsterdam, hereinafter to be referred to as: the State and/or the Netherlands Public Prosecution Service;

and

2. The public limited liability company **ABN AMRO Bank N.V.**, having its registered office in Amsterdam at Gustav Mahlerlaan 10 (1082 PP), in this matter legally represented by R.A.J. Swaak and T.J.A.M. Cuppen, and represented in this matter by P.N. Ploeger and M.J.C. Somsen, attorneys in Amsterdam, hereinafter referred to as: ABN AMRO;

The State and/or the Netherlands Public Prosecution Service and ABN AMRO shall hereinafter also be referred to jointly as: parties,

## The parties consider the following:

- a) Under the direction and responsibility of the public prosecutors of the National Public Prosecutor's Office for Serious Fraud, Environmental Crime and Asset Confiscation and the National Public Prosecutor's Office, a criminal investigation was initiated by the Dutch Fiscal Information and Investigation Service (*Fiscale inlichtingen- en opsporingsdienst*, hereinafter referred to as FIOD) into ABN AMRO under the name "Guardian" as of 2019, with fraud information system number (*gefisnummer*) 64757 and Netherlands Public Prosecution Service number (*parketnummer*) 13/845074-19;
- b) This settlement agreement must be viewed in conjunction with the Statement of Facts in Part I of the **annex** and the Netherlands Public Prosecution Service's Conclusions in Part II of the annex, which annex is attached to this settlement agreement and forms an integral part of it;
- c) Based on the criminal investigation, the Netherlands Public Prosecution Service is of the opinion that ABN AMRO committed criminal offences in the period from 2014 up to and including 2020 arising from shortcomings in fulfilling its role as gatekeeper in aimed at combatting money laundering, as identified in the Guardian investigation, namely violating Articles 2a, 3, 5, 8, 16 and 33 of the Anti-Money Laundering and Counter Terrorism Financing Act (*Wet ter voorkoming van witwassen en financieren van terrorisme*, hereinafter referred to as the AML/CTF Act), punishable under Article 2(1) of the Economic Offences Act (*Wet op de economische delicten*, hereinafter referred to as EOA), and doing so habitually as referred to in Article 6(1)(3) EOA as of January 2015, as well as culpable money laundering, punishable under Article 420quater of the Dutch Criminal Code (*Wetboek van Strafrecht*, hereinafter referred to as DCC);

- d) ABN AMRO has cooperated with the criminal investigation Guardian. ABN AMRO shall, also after the conclusion of this settlement agreement, continue to actively allow the Netherlands Public Prosecution Service to investigate possible criminal offences arising from shortcomings in fulfilling its role as gatekeeper aimed at preventing money laundering to which this settlement relates;
- e) ABN AMRO regrets the shortcomings in fulfilling its role as gatekeeper aimed at combatting money laundering and recognises the seriousness of the matter;
- f) ABN AMRO has taken remedial measures as of January 2019 that are (also) aimed at preventing criminal offences referred to above. In this respect, ABN AMRO has aligned its measures with its regulator the Dutch Central Bank (*de Nederlandsche Bank N.V.*, hereinafter referred to as DNB). The measures taken have been aligned with and approved by DNB and the implementation of these remedial measures is proceeding according to plan;
- g) ABN AMRO has stated that it will not claim a tax deduction in relation to the payment referred to in section 1.2 (II) below;
- h) The Netherlands Public Prosecution Service has decided, in accordance with the applicable Guidance for High Settlements (*Aanwijzing hoge transacties*), to offer ABN AMRO a settlement pursuant to Article 74 DCC under the terms and conditions stated below, which proposal has been accepted by ABN AMRO;
- i) This settlement agreement includes all facts and circumstances arising from shortcomings of ABN AMRO in fulfilling its role as gatekeeper aimed at combatting money laundering, which facts and circumstances occurred in the Netherlands in the years 2014 up to and including the date this agreement is signed, as established in the Guardian investigation, which the Netherlands Public Prosecution Service regards as a violation of Articles 2a, 3, 5, 8, 16 and 33 AML/CTF Act, while doing so habitually as of 2015 as referred to in Article 6(1)(3) EOA, and culpable money laundering (Article 420quater DCC);
- j) In formulating the terms for this out-of-court settlement, the Netherlands Public Prosecution Service has taken into account the cooperation of ABN AMRO in the criminal investigation, the remedial measures taken by ABN AMRO to structurally ensure the effective fulfilment of its role as gatekeeper, as well as the acknowledgement by ABN AMRO of the facts as described in chapter 3 of part I of the annex (the Statement of Facts) that is attached to this settlement agreement. In accordance with the applicable Guidance for High Settlements, this acknowledgement of the facts by ABN AMRO expressly does not imply any acknowledgement of guilt of any criminal offence;

**The parties agree and establish the following**

**Conditions in order to avoid criminal prosecution**

Article 1

1.1 The Netherlands Public Prosecution Service offers ABN AMRO a settlement pursuant to Article 74 DCC, which is accepted by ABN AMRO.

1.2 By virtue of this settlement, ABN AMRO shall make the following payments:  
(I) payment to the State in the amount of € 300,000,000 (in words: three hundred million euros) pursuant to Article 74(2)(a) DCC and  
(II) payment to the State in the amount of € 180,000,000 (in words: one hundred eighty million euros) as disgorgement of unlawfully obtained gains pursuant to Article 74(2)(d) DCC.

1.3 The total amount stated under 1.2 sub (I) and (II) shall be transferred to bank account number \_\_\_\_\_ in the name of "Functioneel Parket Openbaar Ministerie" quoting "ABN AMRO Bank N.V. en parketnummer 13/845074-19" as a reference after signing this agreement. The payment must be received by the Netherlands Public Prosecution Service within one week following signing by both parties, failing which payment, this settlement agreement will be dissolved by operation of law.

1.4 Following the Netherlands Public Prosecution Service's timely receipt of the payments referred to in 1.2 under (I) and (II), the Netherlands Public Prosecution Service's right to criminally prosecute ABN AMRO expires for any and all of the facts and circumstances specified above, more specifically under (c) and (i) in the preamble and in chapter 3 of part I of the annex (the Statement of Facts) arising from the shortcomings of ABN AMRO in fulfilling its role as gatekeeper aimed at combatting money laundering, which facts and circumstances occurred in the Netherlands in the period from 2014 up to and including the date this agreement is signed, as established in the Guardian investigation with fraud information system number 64757 and Netherlands Public Prosecution Service number 13/845074-19, which the Netherlands Public Prosecution Service regards as a violation of Articles 2a, 3, 5, 8, 16, and 33 AML/CTF Act, while doing so habitually as of 1 January 2015, as referred to in Article 6(1)(3) EOA, and culpable money laundering (Article 420quater DCC), except in the event that the Court of Appeal orders the Netherlands Public Prosecution Service to start a prosecution pursuant to proceedings based on Article 12 of the Dutch Code of Criminal Procedure (*Wetboek van Strafvordering*, hereinafter referred to as DCCP).

1.5 This settlement does not concern any possible criminal offences committed by natural persons.

### **Further stipulations**

#### Article 2

2.1 The Netherlands Public Prosecution Service will publish a press release on the out-of-court settlement of this case that will include this settlement agreement with the annex.

2.2 In its press statements, ABN AMRO will only acknowledge chapter 3 of Part I (Statement of Facts) of the annex. In its press statements, ABN AMRO will not contradict the other chapters of Part I (Statement of Facts) and Part II (Assessment by the Netherlands Public Prosecution Service) of the annex as well as the press release of the Netherlands Public Prosecution Service.

#### Article 3

3.1 The parties hereby declare that, subject to the provisions of this settlement agreement, they have no further claims against each other in relation to the facts

referred to in this settlement agreement and all the consequences that have arisen and may still arise therefrom, of whatever nature. The parties grant each other full and final discharge in connection therewith. This entails that ABN AMRO shall refrain from instituting proceedings against the State that are based on or related to the criminal investigation Guardian with fraud information system number 64757 and Netherlands Public Prosecution Service number 13/845074-19. This shall also include – but not be limited to – requests pursuant to Articles 529, 530, 6:4:18 and 6:6:27 DCCP.

3.2 ABN AMRO warrants that none of its (direct or indirect) affiliates, parent companies, subsidiaries and/or group companies will institute a claim against the State that is based on or related to the aforementioned criminal investigation.

#### Article 4

4.1 In the event that the Netherlands Public Prosecution Service has to prosecute ABN AMRO following an order from the Court of Appeal pursuant to a complaint based on Article 12 DCCP, this settlement agreement will be deemed to be terminated without any further act being required to this end. In that event, the Netherlands Public Prosecution Service will repay the amounts paid, as referred to under 1.2 (I) and (II), in accordance with Article 74b(2) DCC. There will be no compensation of interest in connection with such a repayment. The parties shall then consult on the practical aspects of handling the dissolution of this settlement agreement, or the termination of the settlement agreed upon in this agreement.

4.2 The parties waive the right to dissolve this settlement agreement (wholly or in part) or to annul it, for whatever reason, even if circumstances become known that were not known or could not have been known at the time when this settlement agreement was concluded. This stipulation shall be without prejudice to dissolution by operation of law in the event of a failure to pay on time (Article 1.3) and any dissolution in the event of a prosecution order pursuant to Article 12 DCCP (Article 4.1).

4.3 Should any provision in this settlement agreement prove to be invalid or be declared non-binding, this will not affect the other provisions of this settlement agreement. In the event a gap is identified, the parties will consult with each other and try to resolve the gap in good faith.

#### Article 5

All written communication between the parties that is executed on the basis of this settlement agreement, shall be sent to or delivered at the following addresses, fax numbers and/or e-mail addresses:

Netherlands Public Prosecution Service: National Office for Serious Fraud,  
Environmental Crime and Asset Confiscation

ABN AMRO: De Brauw Blackstone Westbroek N.V., for the attention of P.N. Ploeger and M.J.C. Somsen

Article 6

This settlement agreement is subject to Dutch law. The District Court of The Hague has exclusive jurisdiction to handle any disputes in connection with this settlement agreement.

Article 7

The parties declare that they have read this settlement agreement and the annex, completely understand its contents, have been given the opportunity to seek independent legal advice in this regard, and will sign this settlement agreement voluntarily.

Article 8

This settlement agreement and its annex were drawn up in Dutch. In addition, an English translation of this settlement agreement including the annex will be made available or published by the Netherlands Public Prosecution Service. Where the Dutch text and the English translation differ, the Dutch text will prevail.

Agreed on and drawn up and signed in duplicate,

The State of the Netherlands (the Netherlands Prosecution Service),  
on its behalf,

[signed]

[signed]

.....  
A. Rogaar  
Public Prosecutor  
Amsterdam, April 16, 2021

.....  
F. Heus  
Public Prosecutor  
Amsterdam, April 16, 2021

On behalf of ABN AMRO Bank N.V.,

[signed]

[signed]

.....  
R.A.J. Swaak  
CEO

.....  
T.J.A.M. Cuppen  
CRO

Amsterdam, April 19 2021  
(place and date)

Amsterdam, April 19, 2021  
(place and date)