

**RULES GOVERNING THE CLAIMS RESOLUTION PROCESS (AS AMENDED)**

*Please note that these Rules have been and may continue to be amended by order of the Court. These orders may be reviewed on the Court's docket sheet and/or at [www.swissbankclaims.com/Chronology](http://www.swissbankclaims.com/Chronology).*

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### **INTRODUCTION**

These Rules Governing the Claims Resolution Process are established to provide the framework for the Claims Resolution Tribunal ("CRT") to adjudicate the claims of victims or targets of Nazi persecution ("Victims") or their heirs to deposited assets in Swiss banks arising from the settlement of the Holocaust Victim Assets class action litigation. The claims resolution program derives from three important documents: the Settlement Agreement between plaintiffs and defendants in the Holocaust Victim Assets class action in the United States District Court for the Eastern District of New York, Chief Judge Edward R. Korman presiding; the Final Order and Judgment of the Court approving the Settlement Agreement, dated July 26, 2000 (as corrected on August 2, 2000); and the Plan of Allocation and Distribution (the "Plan") proposed by Special Master Judah Gribetz and approved by Judge Korman on November 22, 2000.

These Rules, proposed and subsequently amended by Special Masters Paul Volcker and Michael Bradfield in accordance with the mandate provided for in the Court's Order of Reference of December 8, 2000, and approved by Judge Korman, as amended, are divided into three separate sections concerning the procedures for the publication of accounts, the manner in which the information sources available for the adjudication of a claim will be used, and the rules of procedure to be applied by the CRT. This general introduction is followed by a description of each of the three operational sections of the Rules and the role they are expected to play in the claims resolution process.

Drawing on past experience, and guided by the principle that individual claims to deposited assets must be individually adjudicated, these Rules provide for speedy resolution of claims while maintaining the full benefits of due process of law. With respect to the accounts published in 1997 by the Swiss Bankers Association (the "SBA"), the adjudication took the form of arbitral proceedings in which the claimants, and the individual banks where the dormant accounts were located, were the parties to the proceeding, and awards by the CRT were mainly paid by the bank parties. In accordance with the Plan and the Court's subsequent implementing orders, a different process now applies to claims to Swiss bank accounts made by Victims of Nazi persecution or their heirs. Instead of an arbitration, the CRT makes determinations regarding the rights of claimants to accounts in Swiss banks. Awards resulting from this process are then certified to the Court for payment by the Special Masters subject to Court approval.

In this process, banks are not parties to the proceedings but are cooperating by assisting in making certain information available for the claims resolution process. Claimants in whose favor an award is made receive payment through the Special Masters, who draw on an award

payment account funded from the Settlement proceeds with the final approval of the Court. The Court continues to supervise and control the claims resolution process.

## **Part I: Publication**

To assist potential claimants in identifying Account owners who were Victims with Accounts in Swiss banks from the 1933-1945 period, the names of the Accounts of "probable" victims have been published on the Internet. This publication follows the precedent set in 1997 when the names of owners of 5,570 dormant Accounts were published. Subsequently, the Independent Committee of Eminent Persons ("ICEP"), chaired by Paul A. Volcker, completed a three-year investigation at 59 Swiss banks and, as a result, identified Accounts at these banks that are "probably or possibly" related Victims.<sup>1</sup> ICEP recommended that the Accounts with the highest likelihood of belonging to Victims be published.

The probable and possible victim Accounts were carefully reviewed by the ICEP Audit Firms in the light of new information brought forward by Swiss banks after the completion of the ICEP investigation. The production of this new information from current bank records resulted in the elimination of those Accounts that were opened after 1945, closed before dates of occupation, Accounts with activity after 1945 and duplicate Accounts from the list of probable and possible Accounts. After this searching review, the total number of "probable and possible" Victim Accounts is 36,000 and the total number of "probable or possible" Victim Accounts designated for publication is 21,000. Specifically, the accounts published were those in ICEP Categories 1 and 2 and those in Category 3 with confirming factors. The accounts in Category 3 without confirming factors and the accounts in Category 4 were determined to be less likely to be "probable or possible" Victim Accounts than the accounts that were published. A detailed description of each of the ICEP account Categories can be found on pages 65 through 67 of the ICEP Report. The Swiss Federal Banking Commission ("SFBC") endorsed the publication of the "probable or possible" victim Accounts in March 2000.

The Accounts Publication Database was published on the Internet on February 5, 2001, as directed by Judge Korman in his order of December 8, 2000, as amended. It can be easily searched and downloaded by potential claimants and service organizations by name, by city and by country.

The official list of names of the Account Owners of the 21,000 "probable or possible" Accounts can be found on the Internet on the official website of the SBA at [www.dormantaccounts.ch](http://www.dormantaccounts.ch). In addition, the list is also published on the website of the CRT at [www.crt-ii.org](http://www.crt-ii.org), as well as the website for the Holocaust Victim Assets Litigation — [www.swissbankclaims.com](http://www.swissbankclaims.com). The list of Accounts appearing on these websites may be downloaded and searched by each person's name or by city or country of residence.

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<sup>1</sup> The full report of the ICEP investigation -- Independent Committee of Eminent Persons, [Report on Dormant Accounts of Victims of Nazi Persecution in Swiss Banks](#) (December 1999) -- may be found on ICEP's webpage: [www.icep-iaep.org](http://www.icep-iaep.org).

## **Part II: Data Resources**

Part II of the Rules identifies the data resources available for the claims resolution process and contains the arrangement under which the banks will provide reasonable access by the CRT to these data resources. As part of the Settlement, the defendant Swiss banks pledged their good faith cooperation in the implementation of the Settlement, and these Rules provide for reasonable access to the available data resources.

Information about Victim Accounts from claimants and from the records of Swiss banks is the crucial element of the claims resolution process. This information is essential for a case-by-case adjudication of individual Accounts — the approach to resolution of claims to deposited assets adopted by the Settlement parties and the Court. It is also an essential premise of this process that it can be conducted efficiently and at minimum expense so that claims processing costs are in a reasonable relationship to awards.

For these reasons, claim forms were designed for efficient electronic scanning and easy keyboard input of important data. Similarly, Part II of the Rules provides for efficient and easy access to the data compiled by the ICEP auditors about Accounts from the 1933-1945 period. This bank data was compiled at great expense over a three-year period. It would be an historic error, perpetuating the mistakes of the past, if obstacles were placed in the way of the practical and efficient use of the ICEP-auditor compiled information.

Of the approximately 4 million Accounts identified by the ICEP Audit Firms, as noted above, some 36,000 Accounts are classified by the ICEP Audit Firms as probably or possibly belonging to Victims. Information about these Accounts is contained in files created by the ICEP Audit Firms in the form of an electronic database and hard copy account dossiers. In addition, the ICEP auditors created computer databases of key information available on the 4 million Accounts that were open or opened during the 1933-1945 period.

The Rules deal with the availability of each of these three types of information. First, the "Account History Databases" contain account names and related information for the 36,000 "probable or possible" Accounts. The Account History Databases are maintained at the offices of the CRT in secure facilities and consolidated into a single database to facilitate the use of the information.

Second, the ICEP auditors also prepared dossiers including most of the hard copy information available to them about "probable or possible" Accounts. These dossiers are critical to a fair, complete and efficient claim resolution process. These account dossiers have been centralized at the offices of the CRT for use exclusively in the claim resolution process and subject to Swiss law on bank secrecy and protection of privacy.

Third, during the ICEP investigation, the ICEP Audit Firms created, using the banks' archives, computer databases containing certain information (such as the name of the Account Owner, the type of Account, the balance of the Account) about the 4 million Accounts from the 1933 to 1945 period for which records still existed, as well as about other Accounts for which it was unknown whether they may or may not have been open in the 1933 to 1945 period. The Rules provide that one or more of the ICEP Audit Firms may be retained by the Special Masters

to establish from the databases of the approximately 4 million relevant period Accounts a "Total Accounts Database." The Rules also provide that the CRT will have access to these databases, which will remain located at each bank, through a secure encrypted limited access network. The secure network will be established by one or more of the ICEP Audit Firms and will be subject to the same conditions on use (to protect this information from authorized disclosure) as are applied to the ICEP auditor information described above.

Use by the CRT, an Association established under Swiss law, of each of these three types of information will be subject to arrangements to assure compliance with Swiss law and the confidentiality of this documentation.

Finally, the most extensive sources of information about the 4 million Accounts from the 1933 to 1945 period are still in the banks' archives. The Rules provide that the CRT may ask banks to voluntarily offer assistance in resolving claims to Accounts when necessary to obtain information about plausible claims that is unavailable from the other available sources of information described above, provided such claim is determined by the CRT to meet a test of admissibility.

### **Part III: Claims Resolution Process**

Part III contains the rules regarding how the claims to Accounts will be resolved using the available data resources described in Part II. All claims of Victims or their heirs to Accounts are to be considered pursuant to these Rules, which are designed to provide claimants with the benefits of an expeditious claims process with the protections of due process of law. The claims resolution process consists of proceedings under these Rules: (1) to determine the Admissibility of claims to Accounts; (2) to govern the process of obtaining such information as may be available through Matching and Research or other means available to this CRT; and (3) in every case, to produce a final written decision — either denying the claim or making an Award.

Decisions prepared by the CRT are certified to the Court through the Special Masters. Similarly, appeals of decisions of the CRT are to be made to the Court through the Special Masters.

The rules governing Matching and Research are also designed with considerations of economy given an important place. Accordingly, they are based on the premise that the ICEP auditors can train the CRT Secretariat staff to perform the Matching and Research required as the basis for decisions by the CRT, and that any Research by the Swiss banks will be performed within the cost structure budgeted for the CRT staff.

The Matching and Research of claims to "probable or possible" Accounts generally follows the procedures for these activities that were developed during the ICEP investigation. Special procedures for researching admissible claims that do not match to "probable or possible" Accounts follow the framework of the Settlement Agreement. In addition, to assure fairness to claimants, research of such claims will take place only if necessary, in the judgment of the CRT, to verify bank research results, or to decide on whether to make an award to a claimant to an Account that appears from the facts and circumstances to be the Account of a Victim.

In addition, the Rules provide criteria for the CRT to use in deciding that the relaxed standard of proof — the plausible case requirement — has been met for any individual claim. For many of the Victim Accounts identified in the ICEP investigation, there are some important obstacles to an adjudication of ownership and the determination of awards. For some such Accounts, no bank records exist demonstrating whether the Account Owner (or heirs) actually received the benefits of the Account at the time it was closed, and for others, the amount in the Account is unknown. The Court-approved Plan proposed that in certain cases presumptions be used to overcome these factual gaps.

For Accounts of Victims that have been closed to "unknown" parties, the Plan suggested it would be reasonable to presume, in the absence of facts to the contrary, that if the Account Owner died in a Nazi death camp or in similar circumstance, the Account Owners or their heirs did not receive the benefits of the Account, and thus an award to a valid claimant would be appropriate. Similarly, for Victim Accounts with unknown values, the Plan suggested that average values based on Account type should be used, recognizing that it would be a denial of justice not to make an award to a victim, or to a claimant on behalf of a victim, because value information is unavailable from bank records.

These recommendations have been adopted in these Rules, and the value presumptions, and the circumstances in which they may be used by the CRT are set forth in the Rules as amended.<sup>2</sup>

Finally, the CRT is responsible for certifying awards to the Court. The Special Masters pay all such Certified Awards with the approval of the Court. Awards based on the presumptions described above are paid as described above. Awards are paid by drawing on an awards payment account funded from the Settlement amount in accordance with directions from the Court.

#### **Part IV: Miscellaneous**

Part IV contains definitions applicable throughout these Rules. In addition, specific rules concerning interpretation and amendment of the rules, exclusion of liability, and archives are set forth.

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<sup>2</sup> The Rules previously provided that, in certain cases involving either the use of the value presumptions or the possibility of later valid competing claims, the initial payment amount was 35 percent of the amount awarded and the Court had discretion to adjust the remaining payment of up to 65 percent of the award. The Court's September 25, 2002 Memorandum and Order adjusted these payment amounts so that claimants would receive an initial payment of 65% of the award amount. The Court also provided for payment in full to claimants age 75 and over. On February 28, 2003, the Court approved amendments to the Rules that provided for full payment of all awards.



## **PART I. PUBLICATION**

### **Article 1 Establishment of the Accounts Publication Database**

#### 1. Content of the Accounts Publication Databases

The Accounts Publication Databases are lists of Account Owner names and other identifying information in computer readable media of Accounts:

- a) in ICEP Categories 1 and 2 that were open and dormant, suspended, closed to bank profits or because fees or charges exhausted the Accounts, or were paid to Nazi authorities, as defined by ICEP; and
- b) in ICEP Categories 1 and 2 that were "Closed Unknown by Whom," or in Category 3 that had unique, almost unique or confirming factors matches between Victims and Account Owners, as defined by ICEP, at the Participating Banks.

#### 2. The Single Consolidated Database and Its Formatting

A single consolidated Accounts Publication Database is published on the Internet and fully searchable by Internet users.

### **Article 2 Publication of Accounts Publication Database**

The Accounts Publication Database was published on February 5, 2001, in accord with the prerequisites for publication established by the SFBC in its decisions of March 30, 2000.

## **PART II. DATA RESOURCES**

### **Article 3 Centralized and Consolidated Databases of Account Information For Probable or Possible Accounts**

#### 1. Content of Account History Databases

Account History Databases of account names and other identifying information for all Accounts identified at each bank investigated by such audit firms and reported to ICEP for its Report of December 6, 1999 (the "Final Report") by such audit firms in Categories 1-4 designated by ICEP as probably or possibly related to Victims ("Probable or Possible Accounts"), indicating the bank from which the data was obtained, were established by each of the ICEP Audit Firms.

2. Consolidated Account History Database  
A single consolidated Account History Database was created from the several Account History Databases for each ICEP investigated bank (including the information on the source of the data).
3. Centralization at the CRT  
To provide reasonable access to the Account History Databases for Matching and Research by the CRT, copies of the separate Account History Databases and the consolidated Account History Database are maintained at the offices of the CRT in secure facilities in accordance with the Data Librarian Rules set forth in Appendix A.

#### **Article 4      Account Dossiers**

Subject to the provisions of Article 40 on the confidentiality and disclosure of information, the hard-copy account dossiers (the "Account Dossiers") prepared by each of the ICEP Audit Firms for the Probable or Possible Accounts, as defined in Article 3(1) were transported by each such ICEP Audit Firm to the CRT and are stored in secure facilities at the CRT in accordance with the Data Librarian Rules set forth in Appendix A.

#### **Article 5      Total Accounts Databases**

1. Location and Use of Total Accounts Databases  
Subject to the provisions of Article 40 on the confidentiality and disclosure of information, one or more of the ICEP Audit Firms shall be retained to establish Total Accounts Databases at all banks that agree to the establishment of such Total Account Databases from the databases of all Relevant Period Accounts established by the ICEP Audit Firms at each ICEP investigated bank. The Total Accounts Databases shall be located in secure facilities at each bank where such databases are established. Each bank and the CRT may use the Total Accounts Databases for Matching and Research authorized under these Rules in accordance with the Data Librarian Rules set forth in Appendix A.
2. Incorporation of Total Accounts Databases Into a Secure Encrypted Limited Access Network  
The Total Accounts Databases shall be incorporated into a secure encrypted limited access network by one of the ICEP Audit Firms retained by the Special Masters for this purpose. This secure network shall be accessible to the CRT through a secure computer link to a computer at each investigated bank where a Total Accounts Database is established. The Total Accounts Databases may be used by the CRT for Matching and Research to the extent authorized under these Rules, in accordance with the Data Librarian Rules set forth in Appendix A.
3. On-Site Visits To Obtain ICEP Auditor Compiled Information  
For information compiled by each of the ICEP Audit Firms at each bank investigated by such audit firms that is not included in the Account History Database, the Account Dossiers, or the Total Accounts Databases (including the secure network of such Total Accounts Databases) the Special Masters shall make arrangements for access to these

ICEP Audit Firm files by personnel of the CRT and/or ICEP Audit Firms through on-site visits to the places where such information is located. Any information about Accounts not in the Account History Database, the Account Dossiers, or the Total Accounts Databases (including the secure network of such Total Accounts Databases) that is located at banks will only be available to the extent authorized under Article 20(1), Article 21(1), and Article 21(4)(b)(ii), and under the provisions of Appendix A, including those concerning the redaction of unrelated information. No such information shall be removed from a bank for use by the CRT in the claims resolution process until the Data Librarian has reviewed and redacted unrelated information.

**Article 6 Voluntary Assistance From Banks**

When necessary to obtain information to resolve claims to Accounts that is unavailable to the CRT under Articles 1-5, the CRT may seek the voluntary assistance of banks that may have information in their files on such an Account.

<p><b>PART III. CLAIMS RESOLUTION PROCESS</b></p>
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**Article 7 Scope of Application**

These Rules shall govern the resolution by the CRT of claims to Accounts of Victims open or opened in Swiss banks during the Relevant Period and submitted to the CRT prior to August 31, 2001, or as determined by the Court.

<p><b>STRUCTURE OF THE CRT</b></p>
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**Article 8 Seat of the CRT**

The seat of the CRT is in Zurich, Switzerland. Certain functions of the CRT may, pursuant to recommendations issued by the Special Masters and approved by the Court, be carried out elsewhere.

**Article 9 Composition of the CRT**

The CRT shall consist of a Secretariat, including attorneys, auditors, paralegals, researchers, clerical assistants, and other staff, as may be necessary to carry out its functions.

**Article 10 Organization**

1. Special Masters to Direct Organization

The CRT shall be organized under the direction of the Special Masters.

2. Guidelines and Procedures

The Special Masters may promulgate guidelines and procedures necessary for the fair and expeditious functioning of the CRT and consistent with these Rules.

**Article 11 Appointment and Removal**

The Special Masters shall appoint all attorneys and may remove them.

**Article 12 Functions of the CRT**

The CRT shall under the supervision of the Special Masters:

- a) administer the CRT;
- b) submit to the Special Masters a monthly written report on the activities and the conduct of the CRT;
- c) supervise the financial planning and financial controls of the CRT and submit to the Special Masters a quarterly financial report and periodic budgets of the CRT;
- d) exercise all other functions provided for under these Rules or assigned by the Special Masters.

**Article 13 Secretariat of the CRT**

The Secretariat of the CRT shall:

- a) carry out the functions set forth in these Rules and in any guidelines or procedures issued by the Special Masters;
- b) assist the Special Masters in the performance of their functions; and
- c) perform all other functions assigned to it by the Special Masters.

<b>JURISDICTION OF THE CRT</b>
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**Article 14 Jurisdiction**

The CRT shall have jurisdiction to resolve claims to Accounts of Victims open or opened in Swiss banks during the Relevant Period and to certify to the Court for payment of the value of Accounts.

## CLAIMS PROCEDURES

### Article 15 Submission of Claims

Claims are submitted to the CRT by filing a completed and signed Claim Form within the time limits established by the Court at the following address:

CRT (Claims Registration Office)  
P.O. Box 2666  
JAF Station  
New York, NY 10116-2666

### Article 16 Certification of Decisions by the CRT

The CRT shall certify draft claims decisions, prepared by Staff Attorneys, for approval by the Court. These decisions shall be in writing and shall contain the relevant facts and the reasons for the decision.

## EVIDENCE

### Article 17 Relaxed Standard of Proof

1. Standard of Plausibility  
Each Claimant shall demonstrate that it is plausible in light of all the circumstances that he or she is entitled, in whole or in part, to the claimed Account.
2. Sources of Information for Determinations  
In making determinations on Admissibility and Awards, the CRT shall use, to the maximum extent possible, the records and files available under Articles 3-6, the information submitted by the Claimant, and, to the extent that the CRT deems relevant, other sources of information. Other sources of information may include, but are not limited to, records of the Austrian State Archives and archives of other governments, records of the New York State Holocaust Claims Processing Office, the reports of the Independent Commission of Experts Switzerland - Second World War (the "Bergier Commission"), and any other historical and factual material available to the CRT. The CRT shall at all times bear in mind the difficulties of proving a claim after the destruction of the Second World War and the Holocaust and the long period of time that has elapsed since the opening of the Accounts.

**CRITERIA FOR DECIDING ON ADMISSIBILITY OF CLAIMS  
- THE REASONED AND SATISFACTORY TEST**

**Article 18 Admissible Claims**

1. Determinations of Admissibility - Reasoned and Satisfactory Test  
A claim shall be admissible only after a CRT determination, using the information on the claim submitted by the Claimant, that the claim is admissible in accordance with the five criteria listed in Article 18(2), thereby establishing a reasoned and satisfactory basis for further examination of the claim.
  
2. Determinations of Inadmissibility  
A claim submitted to the CRT is inadmissible if:
  - a) the Claimant has provided no plausible information indicating that the person he or she believes to be the Account Owner was a Victim, or
  - b) the claim is based essentially on a statement that the Claimant or his or her relative and the Account Owner have the same or similar last name, or
  - c) the Claimant has provided no relevant information and/or documentation regarding his or her relationship to the Account Owner, or
  - d) the Claimant has not asserted a relationship to the Account Owner that would justify an Award to the Account, or
  - e) it is apparent that the person the Claimant believes to be the Account Owner and the actual Account Owner are not the same person.

**MATCHING AND RESEARCH OF ADMISSIBLE CLAIMS**

**Article 19 Matching of Claims and Accounts**

1. Claims to be Matched  
All Admissible Claims of Victims or their heirs, and all Admissible Claims of Victims or their heirs submitted to the CRT by the New York State Holocaust Claims Processing Office, shall be matched with the Account History Databases and Accounts published in 1997.
  
2. Training for Matching  
One or more of the ICEP Audit Firms may be retained for the purpose of training CRT

personnel in Matching procedures, or for the purpose of carrying out the Matching process using audit firm staff.

3. Matching Procedures

The Matching procedures shall be established by the Special Masters and shall generally be the same as those used in the ICEP investigation, and decisions on whether the name of a claimed Account Owner matches with the name of an Account Owner in the Account History Databases shall be made by the CRT, taking into account any recommendations made by any ICEP Audit Firm retained for assistance in the Matching process.

4. Record of Decisions

The CRT shall make a record of the reasons for its conclusions on Matching for inclusion in the decisions on Claims.

**Article 20 Research of Matched Claims**

1. Sources of Information for Research

If the CRT determines that there is a match of a claimed Account Owner with the name of an Account Owner in the Account History Database, the CRT shall proceed to:

- a) Research the matched Account for the purpose of determining all the facts relevant to the Account that are available from, among other sources of information, the Database of Accounts Published in 1997, the Account History Databases, or the Account Dossiers, or from on-site visits under Article 5(3);
- b) Research of the Total Accounts Databases, if the CRT makes a reasoned and satisfactory determination, based on the results of the Research under Article 20(1)(a), that a claimant is likely to be determined under Article 22 to be entitled, in whole or in part, to a claimed Account; and
- c) Make a record of this Research for review by the CRT under the provisions of Article 22.

2. Use of ICEP Audit Firms

One or more of the ICEP Audit Firms may be retained to train CRT personnel or to assist in conducting Research.

**Article 21 Matching of Claims to the Total Accounts Database**

1. Conditions for Matching

For Claims that are determined to be Admissible and eligible for Matching under Article 19 and Article 20 based on, among other things, a claim that the Account Owners gave Swiss addresses to the banks holding their Accounts, but for which no match to a Probable or Possible Account is determined under Article 20, or for which a match to a Probable or Possible Account has been disconfirmed by the CRT, then such claim shall

be matched by the CRT with all the Accounts in the Total Accounts Databases of the Participating Banks, provided that a reasoned and satisfactory determination is made to proceed with such Matching and Research.

2. Option to Research

If the CRT determines that there is a match, the bank shall have the option to Research the matched Account under the supervision of the relevant ICEP Audit Firm for the purpose of determining all the facts relevant to the Account that are available in the Total Accounts Databases and in the files of the ICEP Audit Firms, and make a report on the Research to the CRT.

3. Supervision by ICEP Audit Firms

The ICEP Audit Firms that supervise Matching and/or Research shall be retained and compensated by the Special Masters for this purpose and shall be instructed by the CRT on their supervisory responsibilities.

4. Matching and Research by CRT

Matching and/or Research shall be performed by the CRT if:

- a) not performed under Article 21(1), or
- b) necessary, in the judgment of the CRT,
  - (i) to verify Research results reported under Article 21(2) or
  - (ii) to use the Total Accounts Databases of the Participating Banks, the relevant ICEP Audit Firm's files at the bank or banks referred to in Article 5(3), and voluntary bank assistance provided under Article 6, based on a reasoned and satisfactory determination in accordance with the procedure provided for in Article 21(5), taking into account the illustrative, non-binding, hypothetical examples in Appendix B.

5. Procedures for Determinations Under Article 21(4)(b)(ii)

In the case of a determination under Article 21(4)(b)(ii), the CRT shall prepare and file with the Special Masters an opinion stating the reasons for the CRT's reasoned and satisfactory determination to Research a claim.

6. Appeal by Bank of Certain CRT Decisions

- a) If the CRT decides to initiate Matching and/or Research under Article 21(1) or Article 21(4)(b)(ii), the bank or banks whose Total Accounts Databases are to be used for such Matching and/or Research shall be informed by the CRT.
- b) If a bank believes that the CRT has inappropriately proceeded to the Matching and Research of a claim under Article 21(1) or Article 21(4)(b)(ii):
  - (i) the bank may request a review of this decision of the CRT by the Court,



- (ii) the bank's request for review shall be submitted to the Special Masters who shall ascertain the facts concerning the review request, and
- (iii) the Special Masters shall report the facts and their recommendations to the Court for a decision by the Court.

<b>AWARD CRITERIA</b>
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**Article 22 Awards**

1. Review of Claims

All Admissible Claims shall be reviewed to determine whether an Award shall be made.

2. Criteria for Making Awards

An Award may be made of the value of an Account in favor of a Claimant if:

- a) the Claimant has identified a person with precisely the same name as the Account Owner, or the Claimant has accurately identified a person with a substantially similar name as the Account Owner, or a credible pseudonym, and, where applicable, has provided a plausible explanation for the difference in names; and
- b) the CRT is satisfied that the information provided by the Claimant is consistent with unpublished information in bank records relating to such matters as:
  - i. the date/year of the Account Owner's birth and/or death, as applicable;
  - ii. the Account Owner's or his spouse's maiden name, if applicable;
  - iii. the name of the Account Owner's spouse, or children if applicable;
  - iv. the Account Owner's street address;
  - v. the Account Owner's profession;
  - vi. the Account Owner's signature or, where relevant, the signature of the holder of a power of attorney;
  - vii. the relationship between the Account Owner and the holder of a power of attorney; and
- c) the Claimant has provided plausible evidence that the person he or she believes to be the Account Owner was a Victim; and

- d) the relationship between the Claimant and the person identified by him or her as the Account Owner is of a nature that justifies making an Award according to this Article 22(2) of these Rules; and/or
  - e) the Claimant has provided other compelling reasons for making an Award, as determined by the CRT.
3. Awards with Respect to Accounts Not Identified During the ICEP Investigation  
Notwithstanding prior provisions, the CRT may make an Award in a case in which the Claimant plausibly establishes a right to an Account that falls within the CRT's jurisdiction but which, for whatever reasons, was not identified during the ICEP investigation and therefore cannot be subject to Matching and/or Research.

<b>RULES ON MONETARY AWARDS</b>
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**Article 23    General Rule on Distribution**

1. Criteria for Awards in Absence of a Will or Other Inheritance Documents
- a) If the Account Owner's spouse and no descendants of the Account Owner have submitted a claim, the spouse shall receive the entire account.
  - b) If the Account Owner's spouse and descendants have submitted a claim, the spouse shall receive one-half of the account and any descendants who have submitted a claim shall receive the other half in equal shares by representation.
  - c) If the Account Owner's spouse has not submitted a claim, the award shall be in favor of any descendants of the Account Owner who have submitted a claim, in equal shares by representation.
  - d) If neither the Account Owner's spouse nor any descendants of the Account Owner have submitted a claim, the award shall be in favor of any descendants of the Account Owner's parents who have submitted a claim, in equal shares by representation.
  - e) If neither the Account Owner's spouse nor any descendants of the Account Owner's parents have submitted a claim, the award shall be in favor of any descendants of the Account Owner's grandparents who have submitted a claim, in equal shares by representation.
  - f) If a child of the Account Owner is deceased, that child's spouse but none of that child's descendants have submitted a claim, that child's spouse shall be considered a child of the Account Owner for the purposes of this Article.
  - g) If none of the persons entitled to an award under pursuant to Article 23(1)(a-f) has submitted a claim, the CRT may make an award to any relative of the Account

Owner, whether by blood or by marriage, who has submitted a claim, consistent with principles of fairness and equity.

2. Criteria for Awards Where There is a Will or Other Inheritance Documents

- a) If a claimant has submitted the Account Owner's will or other inheritance documents pertaining to the Account Owner, the award will provide for distribution among any beneficiaries named in the will or other inheritance documents who have submitted a claim.
- b) If none of the named beneficiaries has filed a claim, the CRT shall make an award to any claimant who has submitted an unbroken chain of wills or other inheritance documents, starting with the will of, or other inheritance documents pertaining to, the Account Owner.
- c) If a claimant bases a claim of entitlement on a chain of inheritance but has not submitted an unbroken chain of wills or other inheritance documents, the CRT may use the general principles of distribution established in Article 23(1) to make allowance for any missing links in the chain, consistent with principles of fairness and equity.

3. Awards with Respect to Accounts of Legal and Other Entities

If the Account Owner is a legal or other entity (such as a corporation, association, organization, etc.), the Award will be made in favor of those Claimants who establish a right of ownership to the assets of the entity.

**Article 24 Potential Claims of Third Persons**

The rights of individuals to an Account who have not submitted claims to the CRT will, as a general rule, not be considered under the Claims Resolution Process authorized by these Rules.

**Article 25 Joint Accounts**

1. Presumption of Equal Shares

If an Account is a Joint Account and Claimants related to each of the Account Owners have submitted claims to the Account, it shall be presumed that each Account Owner was the owner of an equal share of the Account. This rule shall apply even if one of the Account Owners is still alive.

2. Presumption for Partial Claims

In cases where the Joint Account is claimed by relatives of only one or some of the Joint Account Owners, it shall be presumed that the Account was owned as a whole in equal shares by the Account Owners whose shares of the Account have been claimed.

## **Article 26 Unrelated Claimants**

In cases where the identity of the Account Owner cannot be precisely determined due to the limited information contained in the bank documents, and where several unrelated Claimants have established a plausible relationship to a person with the same name as the Account Owner, the Award may provide for a pro rata share of the full amount in the Account to each Claimant or group of Claimants who would be otherwise entitled under these Rules.

## **Article 27 Application of Rules of Distribution**

### 1. Fair and Equitable Results

In applying the Rules of Distribution, the CRT shall seek to achieve the result that is most fair and equitable under the circumstances.

### 2. Applicable Law

The CRT shall determine the law to be applied to the relationship between an Account Owner and a bank.

## **Article 28 Presumptions Relating to Claims to Certain Closed Accounts**

In order to make an Award under Article 22 for claims to Accounts that were categorized by ICEP as "closed unknown by whom", a determination shall be made as to whether the Account Owners or their heirs received the proceeds of the Account prior to the time when the claim was submitted to the CRT. In the absence of evidence to the contrary, the CRT presumes that neither the Account Owners, the Beneficial Owners, nor their heirs received the proceeds of a claimed Account in cases involving one or more of the following circumstances<sup>3</sup>:

- a) the Account was closed and the Account records show evidence of persecution, or the Account was closed after the date of occupation by or incorporation into the Reich or the date of alliance with the Reich of the country of residence of the Account Owner or Beneficial Owner, and before 1945 or the year in which the Swiss authorities freeze of Accounts from the country of residence of the Account Owner or Beneficial Owner was lifted (whichever is later);
- b) the Account was closed after 1955 or ten years after the freeze of Accounts from the country of residence of the Account Owner or Beneficial Owner was lifted (whichever is later);

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<sup>3</sup> See Independent Commission of Experts Switzerland - Second World War, Switzerland, National Socialism and the Second World War: Final Report (2002) (hereinafter "Bergier Final Report"); see also Independent Committee of Eminent Persons, Report on Dormant Accounts of Victims of Nazi Persecution in Swiss Banks (1999) (hereinafter "ICEP Report"). The CRT has also taken into account, among other things, various laws, acts, decrees, and practices used by the Nazi regime and the governments of Austria, the Sudetenland, the Protectorate of Bohemia and Moravia, the Free City of Danzig, Poland, the Incorporated Area of Poland, the *Generalgouvernement* of Poland, the Netherlands, Slovakia and France to confiscate Jewish assets held abroad.

- c) the balance of the Account was reduced by fees and charges over the period leading up to the closure of the Account and the last known balance of the Account was small;
- d) the Account had been declared in a Nazi census of Jewish assets or other Nazi documentation;
- e) a claim was made to the Account after the Second World War and was not recognized by the bank;
- f) the Account Owner or Beneficial Owner had other Accounts that are open and dormant, suspended, or closed to profits, closed by fees, or closed to Nazi authorities;
- g) the only surviving Account Owner or Beneficial Owner was a child at the time of the Second World War;
- h) the Account Owners, the Beneficial Owners, and/or their heirs would not have been able to obtain information about the Account after the Second World War from the Swiss bank due to the Swiss banks' practice of withholding or misstating account information in their responses to inquiries by Account Owners and heirs because of the banks' concerns regarding double liability;<sup>4</sup>
- i) the Account Owners, the Beneficial Owners, or their heirs resided in a Communist country in Eastern Europe after the War; and/or
- j) there is no indication in the bank records that the Account Owners, Beneficial Owners, or their heirs received the proceeds of the Account.<sup>5</sup>

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<sup>4</sup> See Bergier Final Report at 443-44, 446-49; see also ICEP Report at 81-83.

<sup>5</sup> As described in the Bergier Final Report and the ICEP Report, the Swiss banks destroyed or failed to maintain account transactional records relating to Holocaust-era accounts. There is evidence that this destruction continued after 1996, when Swiss law prohibited destruction of bank records. Bergier Final Report at 40 (stating "[i]n the case of Union Bank of Switzerland . . . , however, documents were being disposed of even after the Federal Decree [of 13 December 1996]"). The wholesale destruction of relevant bank records occurred at a time when the Swiss banks knew that claims were being made against them and would continue to be made for monies deposited by victims of Nazi persecution who died in the Holocaust and that were (i) improperly paid to the Nazis, see Albers v. Credit Suisse, 188 Misc. 229, 67 N.Y.S.2d 239 (N.Y. City Ct. 1946); Bergier Final Report at 443, (ii) that were improperly paid to the Communist controlled governments of Poland and Hungary, see Bergier Final Report at 450 - 51, and possibly Romania as well, see Peter Hug and Marc Perrenoud, Assets in Switzerland of Victims of Nazism and the Compensation Agreements with East Bloc Countries (1997), and (iii) that were retained by Swiss Banks for their own use and profit. See Bergier Final Report at 446-49.

"The discussion on "unclaimed cash" persisted throughout the post-war period due to claims for restitution by survivors and heirs of the murdered victims, or restitution organizations acting on their behalf." Id. at 444. Nevertheless, the Swiss Banks continued to destroy records on a massive scale and to obstruct those making claims. ICEP Report, Annex 4 ¶ 5; In re Holocaust Victim Asset Litig., 105 F. Supp.2d 139, 155-56 (E.D.N.Y. 2000). Indeed, "[i]n May 1954, the legal representatives of the big banks co-ordinated their response to heirs [of account holders] so that the banks would have at their disposal a concerted mechanism for deflecting any kind of enquiry." Bergier Final Report at 446. Similarly, "the banks and their Association lobbied against legislation that would have

## Article 29 Value Presumptions for Accounts with Unknown or Low Values

For an Account for which an Award is made under Article 22, but the amount in the Account is unavailable from bank records or the amount in the Account (1945 value) is less than the amount set forth below, the amount in the Account (1945 value) is to be determined from the following schedule, in absence of plausible evidence to the contrary:

Custody Account	SFr. 13,000
Demand Deposit Account	SFr. 2,140
Savings/Passbook Account	SFr. 830
Safe Deposit Box	SFr. 1,240
Other Types of Accounts	SFr. 2,200
Unknown Account Type	SFr. 3,950

## APPEALS PROCEDURES

### Article 30 Appeals Procedures

#### 1. Appeals of Inadmissibility Decisions

Claimants whose claims are ruled inadmissible under Article 18 of these Rules may appeal that decision to the Court through the Special Masters within ninety days of the date of the letter accompanying the decision.

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(continued...)

required publication of the names of so called 'heirless assets accounts,' legislation that if enacted and implemented, would have obviated the ICEP investigation and the controversy of the last 30 years." ICEP Report at 15. Indeed, in order to thwart such legislation, the Swiss Bankers Association encouraged Swiss banks to underreport the number of accounts in a 1956 survey. "A meager result from the survey," it said, "will doubtless contribute to the resolution of this matter [the proposed legislation] in our favor." ICEP Report at 90 (quoting a letter from the Swiss Bankers Association to its board members dated June 7, 1956). "To summarize, it is apparent that the claims of surviving Holocaust victims were usually rejected under the pretext of bank secrecy . . .", Bergier Final Report at 455, or outright deception about the existence of information, while wholesale destruction of bank records continued for over a half century. Under these circumstances, utilizing the fundamental evidentiary principles of United States law that would have applied to Deposited Assets claims had the class action lawsuits been litigated through trial, the CRT draws an adverse inference against the banks where documentary evidence was destroyed or is not provided to assist the claims administrators. See In re Holocaust Victim Asset Litig., 105 F. Supp.2d 139, 152 (E.D.N.Y. 2000); Reilly v. Natwest Markets Group, Inc., 181 F.3d 253, 266-68 (2d Cir. 1999); Kronisch v. United States, 150 F.3d 112, 126-28 (2d Cir. 1998).

2. Appeals of Awards and Award Denials

Claimants may appeal a Certified Award or Certified Award Denial to the Court through the Special Masters within ninety days of the date of the letter accompanying the decision.

The foregoing provision (“Appeals of Awards and Award Denials”) was applicable for all Certified Awards or Certified Award Denials issued from the inception of the claims resolution process (2001) through July 27, 2011. For the few claims remaining to be processed as of July 27, 2011, the Court has amended this rule as follows:

Appeals of Awards and Award Denials

Claimants may appeal a Certified Award or Certified Award Denial to the Court within thirty days of the date of the letter accompanying the decision. An appeal must be based upon a plausible suggestion of error regarding the CRT’s conclusions set forth in the decision.

3. Authorization for Summary Denials

Appeals submitted without either a plausible suggestion of error or relevant new evidence may be summarily denied.

4. Request for Reconsideration

Claimants possessing documentary evidence that was not previously presented to the CRT, and who upon review of the Certified Award or the Certified Award Denial believe that that evidence would have resulted in a different outcome, may request that the CRT reconsider its decision on the claim. A request for reconsideration shall be sent to the CRT within 90 days of the date of the letter accompanying the decision, at the address specified in the Certified Award or Certified Award Denial. The CRT shall review only those requests for reconsideration in which claimants present documentation not previously submitted to the CRT. Claimants should briefly explain the relevance of the newly submitted documents in view of the conclusions stated in the Certified Award or the Certified Award Denial.

The foregoing provision (“Request for Reconsideration”) has been eliminated for the few remaining claims remaining to be processed as of July 27, 2011, in recognition that for these specific cases, the original claim submission has been supplemented repeatedly by claimants and/or their counsel, often at the request of the CRT, and therefore all relevant documentation already has been presented to the CRT.

## AWARDS

### **Article 31 Certification and Adjustment of Awards**

1. Determination of Amount

For Awards made under Article 22, the amount of the Award shall be the amount in the Accounts as established by bank records or, if unknown, the amount established under Article 29. Such awards shall be adjusted by (a) reducing the Awards by the amount of any interest paid to the Accounts for which the Awards are being made, (b) increasing the Awards by the amount of any fees and charges deducted from such Accounts, and (c) multiplying the resulting amount by 12 (for Awards issued after July 1, 2002) to bring the Awards up to current value. The adjustment provided in the preceding sentence shall be made in accordance with a formula established by the Special Masters with Court approval.

2. Certification of Awards

Awards shall be certified by the CRT to the United States District Court for the Eastern District of New York for payment from the Special Masters' Awards Payment Account from funds made available by the Court from the Settlement Fund established by the Settlement Agreement of January 26, 1999, as amended, settling the Holocaust Victim Assets Litigation under the jurisdiction of the Court.

3. Payment of Awards by Special Masters

Certified Awards shall be paid in full by the Special Masters after approval of such Awards by the Court.

4. Signed Acknowledgment

Each person receiving an Award shall submit to the CRT an acknowledgment in such form as the Special Masters have established, which shall acknowledge a release of all Claims as defined in the Settlement Agreement in the Holocaust Victim Assets Litigation. The CRT may submit the acknowledgment to the relevant Swiss bank.

### **Article 32 Awards to Accounts Held by Intermediaries**

Notwithstanding any other provision of these Rules, in the case of an Account opened by an intermediary, neither the CRT, nor any person employed or retained by the CRT, shall:

- a) report any information about the results of Matching or Research under Article 19-21 other than that an Award to the claimant would be reasonable based on the Research conducted, or
- b) confirm the existence of, or information about, the Account that has been Matched and/or Researched.



## **THE CONDUCT OF THE PROCEEDINGS**

### **Article 33 Factual and Legal Inquiries**

The CRT shall conduct, within the provisions of the Rules, whatever factual and legal inquiries it deems necessary for a comprehensive assessment of the claims submitted to it and shall structure the proceeding in a manner determined to be appropriate by the CRT. In discharging this responsibility, the CRT may also use whatever information and documentation relating to an Account that has been provided by any of the Claimants thereto.

### **Article 34 Language of the Proceedings**

The working languages of the CRT are English, French, German, Hebrew and Spanish. All communications addressed to the CRT shall be in one of these languages.

### **Article 35 Representation**

Claimants who wish to be represented before the CRT by a person of their choice must submit a power of attorney in the form provided by the CRT.

### **Article 36 Costs of Proceeding**

The proceedings before the CRT are free of charge to the Claimants. However, costs incurred by Claimants or their representatives in presenting and otherwise pursuing their claims shall be borne by the Claimants.

### **Article 37 Joinder of Claims**

1. Claims to the same Account or related Accounts may be joined in one proceeding at the discretion of the CRT.
2. In cases where there are several claims to one Account, but the claims have not been joined, the CRT may nevertheless order the claim forms and supporting materials to be distributed to other Claimants to the Account.

### **Article 38 Form and Content of Decisions**

Except as set forth in Article 32 and Article 40, the decisions of the CRT shall be in writing and shall contain the relevant facts, the reasons for the decision, and the date on which the decision was approved by the Court.

## **Article 39      Communications**

1.     Confidentiality of Information Outside of Switzerland  
The CRT has established rules to protect the confidentiality of the information made available to staff reviewing claims outside of Switzerland, which include a prohibition on copying such information and a requirement that the documentation be returned to the CRT within a specified time limit.
  
2.     Communications with Claimants  
Decisions and Orders under these Rules shall be communicated to the Claimants by express or registered mail, or, if necessary, by private courier. For other communications, the CRT shall determine the appropriate means of communication between itself and the Claimants.

## **Article 40      Confidentiality and Disclosure of Information**

1.     Maintenance of Confidentiality of Account Information  
The information that is available to the CRT under these Rules, including the Account information provided for in Part II of these Rules on Data Resources, shall be used exclusively for the purpose of resolving claims made by Victims or their heirs to Accounts as provided in these Rules, and the confidentiality of this information shall be maintained by the CRT in accordance with the provisions of these Rules. In order to maintain the confidentiality of Account information, access to the Accounts History Databases, the Accounts Dossiers, the Total Accounts Databases, and to the bank locations where the ICEP Auditors' files are located, shall be limited to designated personnel of the CRT and the ICEP Audit Firms who have been authorized by the CRT to have such access for the purpose of Matching, Research, and adjudicating Claims and subject to Swiss law on account privacy. Arrangements shall be established, including those provided for in Appendix A concerning the Data Librarian, to assure that each of the types of information referred to in the preceding sentence shall be used by the CRT in compliance with Swiss law and to protect the confidentiality of this information. The Data Librarian may also have access to the Account information provided for in Part II of these Rules under the provisions of Appendix A.
  
2.     Permissible Disclosure of Account Information to Claimants  
As authorized by Swiss law, the CRT may disclose to Claimants with Admissible Claims, only such information in the possession of the CRT on claimed Accounts such as the CRT determines is required for resolving the Claims.
  
3.     Requirement of Approval of Account Owners, Heirs, or Government  
Except as provided in Article 40(2) and Article 41, no information that reveals the names of Account Owners or would necessarily identify Owners of specific Accounts may be disclosed by the CRT or any person employed or retained by the CRT without the approval of the Account Owners or their heirs or the appropriate Swiss governmental authorities.

4. Non-Disclosure to Persons Who Are Not Victims  
The CRT is not empowered to resolve claims made by, or provide any bank related information concerning any bank Account, or make any Award to, any person making a claim to an Account held by or on behalf of a person who is not a Victim, as determined by the CRT.

**Article 41 Publication of Decisions**

The decisions of the CRT shall be made public in an appropriate manner as determined by the Special Masters.

<b>PART IV. MISCELLANEOUS</b>
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**Article 42 Authoritative Text**

The English text of these Rules shall be authoritative.

**Article 43 Amendment of Rules**

These Rules may be amended by the Special Masters with the approval of the Court.

**Article 44 Exclusion of Liability**

1. Waiver by Claimants

By filing a claim, a Claimant agrees:

- a) that the Special Masters, the members of the CRT, including Staff Attorneys, members of the CRT Secretariat and persons acting under the direction of the Special Masters, the CRT, the ICEP Audit Firms, the Participating Banks, and the Claims Conference, as well as its officers and employees carrying out functions under these Rules, shall not be liable to any person for acts or omissions in connection with any matter conducted under these Rules; and
- b) that any issue as to any liability of such entities and persons shall be governed by U.S. federal law.

2. Immunities Granted by Settlement Agreement

This Article shall not prejudice the immunities granted to the ICEP entities under the terms of the Settlement Agreement of the Holocaust Victim Assets Litigation.

**Article 45 Archives**

After the resolution of all Claims, all claim files shall be archived in the United States and/or elsewhere, including Switzerland, as determined by the Court. All internal business files of the CRT shall be archived in the United States or Switzerland, as

determined by the Court. All bank documentation obtained from Defendant Banks will be archived in a location to be determined following consultation with Swiss authorities, including, as appropriate, FINMA.

#### **Article 46     Definition of Terms**

1.     **Account:** means any type of bank account including, without limitation, current, savings and passbooks, any other form of bank liability such as bank checks, bonds and bank-issued medium-term notes (*Kassenobligationen*), as well as securities accounts, safety deposit boxes, and precious metals .
2.     **Account Owner:** means the person named in the bank records as the owner or beneficiary of the Account.
3.     **Admissible Claim:** means a claim that has satisfied the threshold requirements, as defined by Article 18, necessary for having a claim considered by the CRT.
4.     **Award:** means a final decision of the CRT that the Claimant is the rightful owner of a specified amount of money to be paid with the approval of the Court.
5.     **Child:** means a biological child born in or out of wedlock, or an adopted child.
6.     **Claimant:** means any person or entity submitting a claim within the scope of Article 7 to the CRT either directly or through another organization such as ICEP or the New York State Holocaust Claims Processing Office.
7.     **Conference on Jewish Material Claims Against Germany, Inc. (the "Claims Conference"):** means the Claims Conference that is providing administrative services to the CRT, including accounting, bookkeeping, payroll, contract reporting, public information, historical research, budgetary planning, and human resources services.
8.     **Claims Resolution Tribunal ("CRT"):** means the CRT established to resolve certain claims to Accounts in Swiss banks as it shall be constituted and operated pursuant to these Rules.
9.     **Court:** means the U.S. District Court for the Eastern District of New York, U.S.A., Judge Edward R. Korman presiding in the Holocaust Victim Assets Litigation.
10.    **Holocaust Victim Assets Litigation:** means the litigation (96 Civ. 4849 (ERK) (MDG)) filed in the U.S. District Court for the Eastern District of New York, U.S.A.
11.    **ICEP:** means the Independent Committee of Eminent Persons.

12. **ICEP Audit Firms:** means the audit firms that carried out the forensic accounting investigations of Swiss banks under the mandate of ICEP, namely, Arthur Andersen, Coopers & Lybrand, Deloitte & Touche, KPMG, and Price Waterhouse.
13. **Joint Account:** means an Account owned together by two or more Account Owners.
14. **Matching:** means the process of comparing computer databases of names of Victims and/or Claimants with names of Account Owners using algorithms to identify exact name matches, near-exact name matches, and name matches with confirming factors under procedures used in the ICEP investigation.
15. **Old SBC:** means Swiss Bank Corporation prior to its merger with Union Bank of Switzerland.
16. **Old UBS:** means Union Bank of Switzerland prior to its merger with Swiss Bank Corporation.
17. **Participating Banks:** means Credit Suisse, Old SBC, and Old UBS, and any other bank that has agreed to make the Account information in the Accounts Publication Databases available for publication and all information provided for in Part II of these Rules available for the claims resolution process as authorized in these Rules.
18. **Probable or Possible Accounts:** means all Accounts identified at each bank investigated by the ICEP Audit Firms and reported to ICEP as being in Categories 1 to 4 for its Report of December 6, 1999 and designated by ICEP as probably or possibly related to Victims, as adjusted as a result of a review of such Accounts for the purpose of identifying duplicate Accounts, missing Accounts, and other similar factors.
19. **Related Claimants:** means persons claiming an Account from an Account Owner as relatives, as beneficiaries under a will, or as shareholders of a corporate entity.
20. **Relevant Period:** means the period from January 1, 1933 to December 31, 1945.
21. **Research:** means the process of identifying and analyzing information, including information compiled by the ICEP Audit Firms in carrying out the ICEP forensic accounting investigation of Swiss banks, relevant to awarding claims to Accounts.
22. **Secretariat:** means the CRT.
23. **Special Masters:** means the Special Masters appointed by the Court pursuant to the Referral to Special Masters for Claims Resolution Process for Deposited Assets of December 8, 2000.

24. **Spouse:** means anyone who was married to the Account Owner at the time of the Account Owner's death, as well as a person who cohabited and maintained a joint household with the Account Owner for a substantial period of time immediately prior to the Account Owner's death or deportation, provided that neither of the parties was married to another person during that time.
25. **Unadjusted Book Value:** means the earliest ascertainable book value of an Account recorded in the bank records, prior to adjustment for interest and fees.
26. **Victim or Target of Nazi Persecution ("Victim"):** means any person or entity persecuted or targeted for persecution by the Nazi regime because they were or were believed to be Jewish, Romani, Jehovah's Witness, homosexual, or physically or mentally disabled or handicapped.

#### **Article 47    Advisory Committee**

The Special Masters may establish an Advisory Committee that may include persons drawn from Victims, the plaintiffs in the Holocaust Victim Assets Litigation, Jewish organizations with experience with claims matters, organizations providing assistance to potential claimants, governmental entities, or other persons who can contribute to the administration of the claims resolution process.

DATA LIBRARIAN RULES

1. A Data Librarian shall be responsible for a Data Library consisting of the Account History Database, the Account Dossiers, and the Total Accounts Databases to be made available to the CRT under the provisions of these Data Librarian Rules for resolving claims of Victims or their heirs to Accounts in Swiss banks from the 1933-1945 period. The Data Librarian would make this information available to the CRT for the purpose of (a) resolving admissible claims in an effective and efficient manner that is consistent with the requirements of due process and (b) assuring compliance with Swiss laws on data privacy and confidentiality, and the rules on data confidentiality established by the SFBC in its decisions of March 30, 2000 and, for this purpose, the SFBC will serve in a supervisory role with respect to the arrangements in this Appendix A. The Data Librarian shall operate as provided in these Data Librarian Rules.
2. The Data Librarian shall be selected from independent accounting firms resident in Switzerland. This firm shall be independent but shall be retained and mandated by the Special Masters, and shall report to them and to the SFBC. The Data Librarian shall be subject to the budget for the operation of the Data Librarian established by the Special Masters.
3. Under the supervision of the Data Librarian, the Account History Database and the Account Dossiers shall be located at the CRT. The Account History Database shall be maintained on a secure server, and both the secure server for the Account History Database, accessible through computer terminals on the desks of specifically authorized CRT staff, and the Account Dossiers are to be located in secure office space that is separate from that of the CRT. The Total Accounts Databases shall remain at individual banks with access only through secure terminals located in the office space occupied by the Data Librarian at the CRT.
4. The data resources referred to in Paragraph 3 of this Appendix A would be available to the CRT staff for Matching and Research of specific claims deemed to be admissible under Article 18 of the Rules under the following arrangements:
  - a) the CRT shall, with the assistance of qualified experts, design and create computer programs that would match the names in claims to the names in the Account History Database and the Total Accounts Database. The programs shall, in addition to Matching names, also match information common to the claim and Account record that might assist with determining the validity of the name match;
  - b) the computer programs shall be similar to those used by the ICEP auditors, but shall involve a more significant element of fuzzy matching in order to more comprehensively match names in claims to the Germanized spellings in the

consolidated database (Germanized only because the names were recorded in Swiss banks in the 1930s and 1940s); and

- c) the CRT may, with the assistance of computer professionals as may be necessary, adjust the computer matching programs as experience indicates.
5. The programs would be used for (a) accessing the Account History Database when claims are judged to be admissible by the CRT under Article 18, and (b) accessing the Total Accounts Database when such access is authorized under Article 20(1), Article 21(1), and Article 21(4)(b)(ii). When so authorized under these Rules, the CRT's computer system would execute programs on the server maintained by the Data Librarian that would match the relevant names in the claim as determined by the CRT to the names in the Account History Database and/or the Total Accounts Databases.
  6. If there is a Matching of names to the Account History Database (in the exact sense and in the fuzzy sense) to the names in the admissible claim or claims, then:
    - a) a list of Accounts deemed relevant by the CRT would be sent by the computer programs to both the Data Librarian and to the CRT; and
    - b) copies of the complete computer records for each Account in the list would be extracted by the computer programs and downloaded to the CRT's system and queued to the appropriate CRT staff designated to work on the adjudication of the claims.
  7. Based on the list of Accounts generated by the programs, the Data Librarian, after redacting any information in the Account Dossier concerning persons unrelated to the Account, would make a copy of the Account or Accounts Dossiers for each Account in the list and give the copies to the CRT.
  8. The CRT's computer system would have facilities for viewing information assembled about the claims and claimed Accounts in order to facilitate the decision on which, if any, claimant is entitled to an award.
  9. a) The Special Masters shall retain an audit firm authorized to audit banks in Switzerland to perform Matching and Research on behalf of the CRT using the Total Accounts Databases as authorized under Article 20(1), Article 21(1) and Article 21(4)(b)(ii) of the Rules in the office space of the Data Librarian at the CRT, and before any printouts of electronic data or copies of hard copy data in connection with such Matching and Research can be removed from the offices of the Data Librarian, such printouts of electronic data or copies of hard copy data will be subject to inspection by the Data Librarian who shall redact:
    - i) information about persons unrelated to the Account for which the Matching and Research was undertaken, and



- ii) the name and any information that would necessarily identify an intermediary who established and managed an Account as a fiduciary of the claimed Account owner (an "Intermediary Account").
  - b) If the CRT, or ICEP auditors acting on behalf of the CRT, conduct on-site Research as provided in Article 5(3) of the Rules Governing the Claims Resolution Process, the Data Librarian shall make an on-site review of any information resulting from this Research, and redact such information as provided for in Paragraphs 9(a)(i) and (ii) of this Appendix A before such information may be removed from a bank and used by the CRT in the claims resolution process.
10. If the Matching and Research results in the identification of an Intermediary Account, the Data Librarian shall: a) inform the CRT that an intermediary held the Account in question as the fiduciary for the claimed Account owners and b) provide to the CRT a printout of electronic data and a copy of hard copy data concerning the Intermediary Account redacted as provided in Paragraph 9 of this Appendix A.
11. The Data Librarian shall inform the CRT of the reason or reasons for any redactions of any information as unrelated to the Account for which Research was undertaken.
12. Procedures are to be established to facilitate tracking of compliance with the foregoing rules including:
- a) a requirement that every time the programs are executed, they would automatically generate an audit trail showing exactly what has transpired (e.g., showing admissible claim names, matching Account names, the destination computer, as well as the names of all computer programs involved and the last date of modification for each program) and
  - b) a requirement that the Data Librarian maintain records of all actions taken by the firm selected to carry out the task of Data Librarian, including a record of all documents both before and after redaction.
13. The Data Librarian shall report quarterly on the operation of the program contained in these Data Librarian Rules to the Special Masters and the SFBC. The Data Librarian may use the audit trail reports provided in Paragraph 12(a) and (b) of this Appendix A in preparing quarterly reports, and to propose additional audit procedures designed to test compliance with the procedures provided for in these Data Librarian Rules. In addition, arrangements shall be made by the Special Masters, in consultation with the SFBC, consistent with the requirements for maintaining compliance with Swiss data protection laws, to review the appropriateness of document redaction by the Data Librarian.
14. The procedures provided for in these Data Librarian Rules shall be reviewed quarterly in the light of the reports of the Data Librarian to determine whether or not the procedures are accomplishing the dual goals established in the first Point of these Data Librarian Rules.

**SWISS ADDRESS HYPOTHETICALS**

The following hypotheticals illustrate how the CRT will apply the "reasoned and satisfactory" standard, as provided in Article 21(1). The examples are intended to be illustrative only. Each case would be decided on all of its particular facts and circumstances, including credibility determinations.

1. Claimant provides credible information that the account owner had a secondary residence in Switzerland. This would be a reasoned and satisfactory basis.
2. Claimant provides credible information that the account owner had a Child in a Swiss school. This would be a reasoned and satisfactory basis.
3. Claimant provides credible information that the account owner opened an Account in his or her own name, but using the Swiss address of a lawyer or intermediary. This could be a reasoned and satisfactory basis, depending on the specificity or credibility of the information concerning the intermediary.
4. Claimant provides credible information that a person with a Swiss address opened an Account in that person's name, but for the benefit of a Victim. This could be a reasoned and satisfactory basis, depending on the specificity and credibility of the information concerning the relationship between the person who opened the Account and the Victim. For example, if the claimant produces a letter dating from the relevant time period stating that the Victim used a specific lawyer or other Swiss person for opening an Account, this would be a reasoned and satisfactory basis. If the claimant states only that the Victim knew a lawyer in Switzerland or had family or friends in Switzerland, this would not be a reasoned and satisfactory basis.
5. Claimant states only that the account owner opened an Account in Switzerland using a pretextual Swiss address. Without more information, this is not a reasoned and satisfactory basis. However, if the claimant provides other corroborative information about why a pretextual Swiss address was used, this may become a reasoned and satisfactory basis.
6. Claimant states only that the Account Owner had an Account in Switzerland. This is not a reasoned and satisfactory basis.
7. Claimant states only that the account owner opened the Account while traveling in Switzerland. This is not a reasoned and satisfactory basis.