



BOARD OF GOVERNORS  
OF THE  
FEDERAL RESERVE SYSTEM

WASHINGTON, D.C. 20551

SCOTT G. ALVAREZ  
GENERAL COUNSEL

December 30, 2011

Craig D. Miller, Esq.  
Manatt, Phelps & Phillips, LLP  
One Embarcadero Center, 30<sup>th</sup> Floor  
San Francisco, California 94111

Dear Mr. Miller:

This letter relates to your request dated January 26, 2011, that Triodos Bank NV and its sole stockholder, Stichting Administratiekantoor Aandelen Triodos Bank (collectively, "Triodos"), both of Zeist, the Netherlands, would not be deemed to control New Resource Bank ("Bank"), San Francisco, California, for purposes of the Bank Holding Company Act of 1956 ("BHC Act"), as amended, as a result of its investment in Bank.<sup>1</sup> Triodos currently owns 9.54 percent of the outstanding voting common stock of Bank and is proposing to make an additional investment in Bank as part of a larger capital raise from a number of investors.

Based on the facts and representations provided to the Board, we understand the following:

- Triodos proposes to acquire no more than 24.9 percent of either the voting common stock or total equity of Bank.
- Triodos is not affiliated with any other investor in Bank.
- Triodos will not have representation on Bank's board of directors or any employee interlocks with Bank.
- Triodos and the other investors entered into a stock purchase agreement with Bank. The stock purchase agreement sets forth the

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<sup>1</sup> Triodos Bank NV is a foreign bank. It has no U.S. banking operations and accordingly is not subject to the BHC Act either directly or pursuant to section 8 of the International Banking Act. 12 U.S.C. § 3106(a).

terms under which the investors may purchase shares in Bank. The agreement grants no special rights, such as the right to appoint a director, rights of first refusal, tag-along or drag-along rights, or covenants that would restrict the ability of Bank's management to determine the major policies and operations of Bank, to any of the investors, including Triodos.

- Triodos does not currently have, or expect to have, any business relationships with Bank.

For purposes of the BHC Act, a company has control over another company if the first company (i) directly or indirectly or acting through one or more other persons owns, controls, or has power to vote 25 percent or more of any class of voting securities of the other company; (ii) controls in any manner the election of a majority of the directors of the other company; or (iii) directly or indirectly exercises a controlling influence over the management or policies of the other company.<sup>2</sup> The Board's Regulation Y also sets forth a set of rebuttable presumptions of control.<sup>3</sup> Triodos's investment would not trigger any of the rebuttable presumptions of control in Regulation Y with respect to Bank as a result of the transaction.

In 2008, the Board adopted a policy statement regarding equity investments in banks, bank holding companies, and nonbanking firms. In the policy statement, the Board noted that minority investors have avoided exercising a controlling influence over a banking organization by, among other means, restricting the size of their voting and total equity investment in the banking organization; avoiding agreements that restrict the ability of the banking organization's management to determine the major policies and operations of the banking organization; not attempting to influence the banking organization's process for making decisions about major policies and operations; limiting director and officer interlocks with the banking organization; and significantly limiting business relationships between the investor and the banking organization.<sup>4</sup> The Board typically has been concerned that a company could exercise a controlling influence over a bank for BHC Act purposes if the company has invested in the organization and has significant business relationships with the organization.

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<sup>2</sup> 12 U.S.C. § 1841(a)(2); 12 CFR 225.2(e).

<sup>3</sup> See 12 CFR 225.31(d).

<sup>4</sup> Board Press Release of September 21, 2008 (to be codified at 12 CFR 225.144).

Triodos has stated that it does not propose to control or exercise a controlling influence over Bank and that its investment is a passive investment. Accordingly, Triodos has provided commitments substantially similar to those on which the Board has previously relied on in determining that an investor would not be able to exercise a controlling influence over a banking organization for purposes of the BHC Act.

In this case, staff would not at this time recommend that the Board find Triodos to have a controlling influence over the management or policies of Bank, for purposes of the BHC Act, based on the current structure of Triodos's proposed investment. This recommendation could change, however, if the facts or relationships between Triodos and Bank or the other investors change in any material way.

In reaching this opinion, staff relied on all the facts of record, including all the representations and commitments made by or on behalf of Triodos and Bank (whether noted in this letter or otherwise contained in correspondence with the Board). In this regard, you should advise Board staff immediately of any material changes in the facts noted above.

To address the possibility of an association or controlling influence developing in the future, the Board retains the authority to review the investment and relationships regularly to determine whether, under all the facts and circumstances, any investor, or any group of investors, are acting in a manner that suggests it has control of, or the ability to exercise a controlling influence over, Bank for purposes of the BHC Act. If you have any questions about this matter, please contact Anna Harrington, Attorney (202-452-6406), or Amanda Allexon, Senior Counsel (202-452-3818), of the Board's Legal Division.

Sincerely,

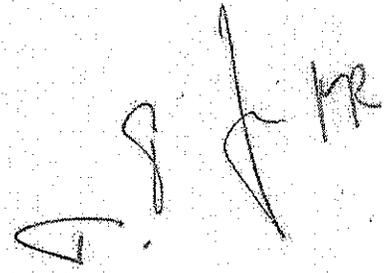
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cc: Federal Reserve Bank of San Francisco  
Federal Deposit Insurance Corporation  
California Department of Financial Institutions

FEDERAL RESERVE BOARD PASSIVITY COMMITMENTS

Stichting Administratiekantoor Aandelen Triodos Bank and Triodos Bank NV (each "Triodos Acquirer"), and their subsidiaries and affiliates (collectively "Triodos Acquirer Group"), will not, without the prior approval of the Federal Reserve Board or its staff, directly or indirectly:

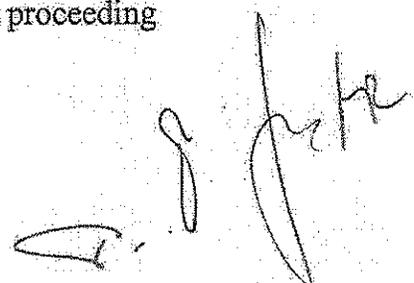
1. Exercise or attempt to exercise a controlling influence over the management or policies of New Resource Bank ("NRB"), San Francisco, California, or any of its subsidiaries;
2. Have or seek to have a representative of Triodos Acquirer Group serve on the board of directors of NRB or any of its subsidiaries;
3. Have or seek to have any employee or representative of the Triodos Acquirer Group serve as an officer, agent, or employee of NRB or any of its subsidiaries;
4. Take any action that would cause NRB or any of its subsidiaries to become a subsidiary of Triodos Acquirer Group;
5. Own, control, or hold with power to vote securities that (when aggregated with securities that the officers and directors of the Triodos Acquirer Group own, control, or hold with power to vote) represent 25 percent or more of any class of voting securities of NRB or any of its subsidiaries;
6. Own or control equity interests that would result in the combined voting and nonvoting equity interests of the Triodos Acquirer Group and its officers and directors to equal or exceed 25 percent of the total equity capital of NRB or any of its subsidiaries, except that, if Triodos Acquirer Group and its officers and directors own, hold, or have the power to vote less than 15 percent of the outstanding shares of any classes of voting securities of NRB, Triodos Acquirer Group and its officers and directors may own or control equity interests greater than 25 percent, but in no case more than 33.3 percent, of the total equity capital of NRB or any of its subsidiaries;
7. Propose a director or slate of directors in opposition to a nominee or slate of nominees proposed by the management or board of directors of NRB or any of its subsidiaries;

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- 8. Enter into any agreement with NRB or any of its subsidiaries that substantially limits the discretion of NRB's management over major policies and decisions, including, but not limited to, policies or decisions about employing and compensating executive officers; engaging in new business lines; raising additional debt or equity capital; merging or consolidating with another firm; or acquiring, selling, leasing, transferring, or disposing of material assets, subsidiaries, or other entities;
- 9. Solicit or participate in soliciting proxies with respect to any matter presented to the shareholders of NRB or any of its subsidiaries;
- 10. Dispose or threaten to dispose (explicitly or implicitly) of equity interests of NRB or any of its subsidiaries in any manner as a condition or inducement of specific action or non-action by NRB or any of its subsidiaries; or
- 11. Enter into any other banking or nonbanking transactions with NRB or any of its subsidiaries, except that Triodos Acquirer Group may establish and maintain deposit accounts with NRB, provided that the aggregate balance of all such deposit accounts does not exceed \$500,000 and that the accounts are maintained on substantially the same terms as those prevailing for comparable accounts of persons unaffiliated with NRB.

In addition, each member of Triodos commits to the following:

- 12. Each member of Triodos Acquirer Group agrees to provide all information, without regard to whether such information is located within or without the United States, requested in connection with any investigation, action, or proceeding by the Board relating to:
  - (a) enforcement or possible enforcement of the Bank Holding Company Act of 1956, as amended, 12 U.S.C. § 1841 et seq. ("BHC Act"), or the Change in Bank Control Act of 1978, 12 U.S.C. § 1817(j) ("CIBC Act"); and
  - (b) the ownership or control by Triodos Acquirer Group of equity interests in NRB.
- 13. Each member of Triodos Acquirer Group consents and submits to the personal jurisdiction of any federal court of competent jurisdiction and of the Board for purposes of any investigation or possible investigation, action, subpoena, examination, or proceeding



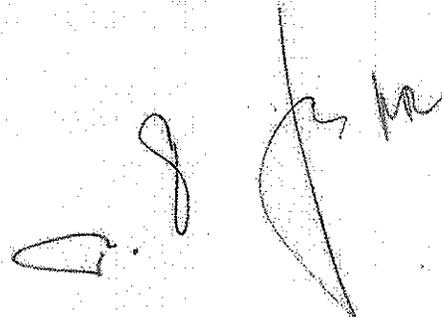
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relating to the administration or enforcement of these commitments, the BHC Act, or the CIBC Act. For purposes of this Commitment, Triodos Acquirer Group shall at all times maintain in the United States a designated agent, acceptable to the Board, to accept service on its behalf, including service of any process, notice, order, or subpoena. Each member of Triodos Acquirer Group designates Gordon M. Bava, Manatt, Phelps & Phillips, LLP, 11355 West Olympic Blvd., Los Angeles, CA 90064, as its agent to accept such service, and will not change this designation without notice to and consent of the Board.

Each Triodos Acquirer also certifies that:

14. Triodos Acquirer is not an affiliate of any other investor (excluding other Triodos Acquirers) in the proposed transaction (individually, each an "Investor," and, collectively, the "Investors");
15. Triodos Acquirer has reached its decision to invest in NRB independently from the other Investors;
16. Triodos Acquirer is not managed or advised by an investment manager or investment advisor who performs the same services for any other Investor (excluding other Triodos Acquirers);
17. Triodos Acquirer (including any subsidiary or affiliate of a Triodos Acquirer) has not engaged and will not engage as part of a group consisting of substantially the same entities as the Investors, in substantially the same combination of interests, in any additional banking or nonbanking activities or business ventures in the United States without prior consultation with the Board;
18. Triodos Acquirer has not and will not enter into any agreements or understandings with any other Investor to act in concert for the purpose of exercising a controlling influence over NRB or any of its subsidiaries, including, but not limited to, any agreements or understandings regarding the voting or transfer of shares of NRB.

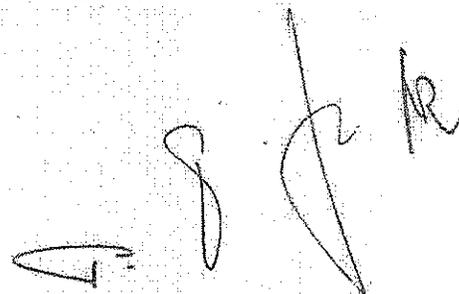
The terms used in these commitments have the same meanings as set forth in the Bank Holding Company Act of 1956, as amended, and the Board's Regulation Y. For purposes of these commitments, "Investor" includes any subsidiary or affiliate of the Investor.

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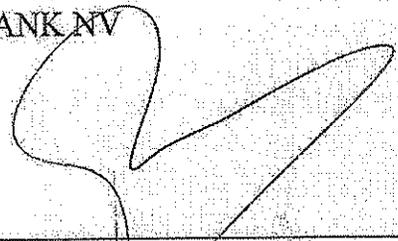
Nothing in these commitments releases the Triodos Acquirer Group from compliance with the Change in Bank Control Act and the Board's regulations thereunder for any subsequent acquisition or increase in the percentage ownership of any class of voting shares of NRB.

Each Triodos Acquirer understands that these commitments constitute conditions imposed in writing in connection with the Board's findings and decisions related to Triodos Acquirer Group's acquisition of up to 24.9 percent of voting shares of NRB, including a determination that no filing under the Bank Holding Company Act is required for this transaction by Triodos Acquirer Group OR pursuant to sections 3 and 4 of the Bank Holding Company Act of 1956, as amended ("BHC Act") and the Board's Regulation Y, and, as such, may be enforced in proceedings under applicable law.

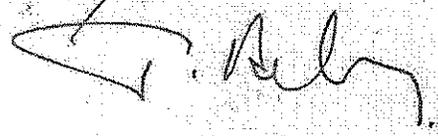
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TRIODOS BANK NV

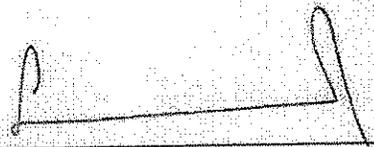


By: Peter Blom, Chief Executive Officer

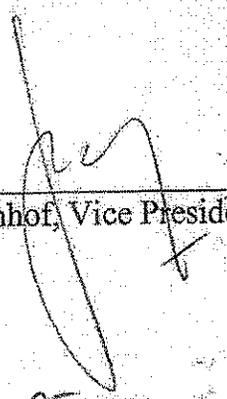


By: Pierre Aeby, Chief Financial Officer

STICHTING ADMINISTRATIEKANTOOR AANDELEN TRIODOS BANK



By: L.M. Rutgers van Rozenburg, President



By: J.T.M. Nijenhof, Vice President

Date: November 25, 2011

The present document was presented to me Franciscus Gerardus Bakker, notary lawyer, based in Zeist, the Netherlands, for notarization of the signature of Mr Peter BLOM, born in Leiden on the 3<sup>rd</sup> day of March 1956, whose identity was proved to me on the basis of his passport number NTJ985BF1. The undersigned did not inform the person in question. The validity of the undersigned's statement does not under any circumstances go beyond ascertaining the identity of the person in question. Notarization of the person in question's signature does not in any way establish his / her competence and / or jurisdiction. All liability that does not directly have to do with the identity of the person in question is excluded. Zeist, the 28<sup>th</sup> day of November 2011.

*[Handwritten signature]*



The present document was presented to me, Franciscus Gerardus Bakker, notary lawyer, based in Zeist, the Netherlands, for notarization of the signature of Mr Pierre Herman AEBY, born in Gand, Belgium, on the 29<sup>th</sup> day of March 1956, whose identity was proved to me on the basis of his passport number EI363885. The undersigned did not inform the person in question. The validity of the undersigned's statement does not under any circumstances go beyond ascertaining the identity of the person in question. Notarization of the person in question's signature does not in any way establish his / her competence and / or jurisdiction. All liability that does not directly have to do with the identity of the person in question is excluded. Zeist, the 28<sup>th</sup> day of November 2011.

*[Handwritten signature]*



The present document was presented to me, Franciscus Gerardus Bakker, notary lawyer, based in Zeist, the Netherlands, for notarization of the signature of Mr Lucas Maximiliaan RUTGERS VAN ROZENBURG, born in Middelburg on the 12<sup>th</sup> day of July 1947, whose identity was proved to me on the basis of his passport number NTD80D220. The undersigned did not inform the person in question. The validity of the undersigned's statement does not under any circumstances go beyond ascertaining the identity of the person in question. Notarization of the person in question's signature does not in any way establish his / her competence and / or jurisdiction. All liability that does not directly have to do with the identity of the person in question is excluded. Zeist, the 28<sup>th</sup> day of November 2011.

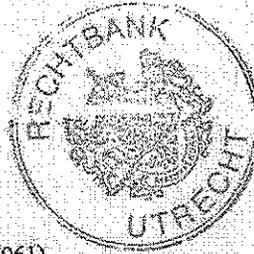
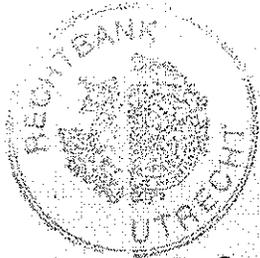
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The present document was presented to me, Franciscus Gerardus Bakker, notary lawyer, based in Zeist, the Netherlands, for notarization of the signature of Mr Johannes Theodorus Maria NIJENHOF, born in Nijmegen on the 7<sup>th</sup> day of April 1945, whose identity was proved to me on the basis of his passport number NYOP2L335. The undersigned did not inform the person in question. The validity of the undersigned's statement does not under any circumstances go beyond ascertaining the identity of the person in question. Notarization of the person in question's signature does not in any way establish his / her competence and / or jurisdiction. All liability that does not directly have to do with the identity of the person in question is excluded. Zeist, the 28<sup>th</sup> day of November 2011.

*[Handwritten signature]*





**APOSTILLE**  
(Convention de La Haye du 5 octobre 1961)

1. Country: The Netherlands  
This public document
2. has been signed by:  
F.G. Bakker
3. acting in the capacity of:  
notary
4. bears the seal/stamp of:  
MR. F.G. BAKKER  
NOTARIS TE ZEIST

Authenticated

5. at Utrecht,
6. 28 November 2011
7. by the registrar of the courts of first instance of Utrecht
8. no. 11/2607
9. Stamp
10. Signature

A. Cabo

