FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
No. 2011030683601

TO: Department of Enforcement
Financial Industry Regulatory Authority ("FINRA")

FROM: Credit Suisse Securities (USA), LLC
CRD No. 816

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Respondent Credit Suisse Securities (USA), LLC ("Credit Suisse" or the "Firm") submits this Letter of Acceptance, Waiver and Consent ("AWC") for the purpose of proposing a settlement of the alleged rule violations described below. This AWC is submitted on the condition that, if accepted, FINRA will not bring any future actions against Respondent alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

A. Credit Suisse hereby accepts and consents, without admitting or denying the findings, and solely for the purposes of this proceeding and any other proceeding brought by or on behalf of FINRA, or to which FINRA is a party, prior to a hearing and without an adjudication of any issue of law or fact, to the entry of the following findings by FINRA:

BACKGROUND

Credit Suisse has been a FINRA member since 1936 and is headquartered in New York, New York. The Firm is a full-service brokerage firm with more than 3,700 registered personnel. Among other things, it provides equity research, sales and trading services, and underwriting services.

RELEVANT DISCIPLINARY HISTORY

In 2003, NASD censured Credit Suisse[1] and other firms as part of the Global Research Settlement and ordered the Firm to pay a total of $200,000,000 for violating NASD Rules 2110, 2210(d)(1), 2210(d)(2), 3010, and 3110, and Rules 15c-1 and 17a-3 of the Securities Exchange Act of 1934 by (1) engaging in acts and practices that created or maintained inappropriate influence by investment banking over research analysts, and therefore imposed conflicts of interest on its research analysts that the Firm in turn failed to manage properly; (2) issuing research reports on issuers that were not based on principles of fair dealing and good faith, did

[1] At that time, the Firm's name was Credit Suisse First Boston LLC. In January 2006, the Firm changed its name to Credit Suisse Securities (USA), LLC.

not provide a sound basis for evaluating facts, made exaggerated or unwarranted claims for which there was no reasonable basis, were imbalanced, and/or lacked full and accurate disclosures; (3) issuing fraudulent research reports; (4) engaging in improper "spinning" and IPO distribution activities; and (5) failing to establish and maintain a system to supervise the activities of registered representatives and associated persons in the areas of publication of research reports, and the Firm's "spinning" activities.[2]

In 2006, pursuant to AWC No. EAF0401490001, Credit Suisse consented to findings that it violated NASD Rules 2711(h)(7) and (h)(10), 3010(a) and 2110, for publishing research reports that used unclear language to describe price target valuation methods and risks that might impede achievement of the price targets; and for related supervisory failures. Credit Suisse consented to a censure, a $225,000 fine and an undertaking to periodically review a meaningful sample of its research reports and to certify that the Firm is in compliance with NASD Rules 2711(h)(7) and (h)(10).

In 2009, pursuant to AWC No. 2008013339901, Credit Suisse consented to findings that it failed to comply fully with its undertaking to make available Independent Research to its customers, pursuant to Addendum A of the Global Research Settlement. Credit Suisse consented to a censure and a fine in the amount of $275,000.

OVERVIEW

In April 2010, Toys R Us ("TRU") and its private equity owners ("Sponsors") invited Credit Suisse and other broker-dealers to compete for a role in TRU's planned initial public offering (the "TRU IPO"). To win this investment banking business from TRU, Credit Suisse's equity research analyst participated in the Firm's solicitation efforts, and the Firm offered favorable research coverage to TRU. Moreover, Credit Suisse failed to adopt and implement adequate written supervisory procedures governing analyst involvement in investment banking solicitations and offers of favorable research coverage. Therefore, in the context of the TRU IPO, Credit Suisse violated three separate provisions of NASD Rule 2711, the research analyst conflict of interest rule: 2711(c)(4), which prohibits research analysts from participating in efforts to solicit investment banking business; 2711(e), which prohibits firms from directly or indirectly offering favorable research to obtain investment banking business; and 2711(i), which requires firms to adopt and implement written supervisory procedures reasonably designed to ensure that the member and its employees comply with the provisions of NASD Rule 2711.

Credit Suisse allowed its research analyst to participate in the Firm's solicitation efforts by allowing the analyst to present his views on TRU to TRU's management and Sponsors during the "solicitation period" – *i.e.*, the period after a company has made known that it intends to proceed with a prospective investment banking services transaction, such as an IPO, and before the company has made a bona fide award of a mandate for the transaction. Before TRU awarded the TRU IPO business, it asked the equity research analysts from the firms competing for the

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[2] In conjunction with Letter of Acceptance, Waiver and Consent No. CAF 030026 (Apr. 21, 2003), Credit Suisse entered into a Final Judgment with the Securities and Exchange Commission ("SEC") that included, among other things, undertakings with regard to research independence and publication.

business to make presentations to TRU's management and Sponsors. TRU provided specific topics for the analysts to address and put the firms on notice that, as part of the underwriter-selection process, it would consider each analyst's views of the company and whether the analyst's valuation was consistent with the firm's investment bankers' valuation. As described below, Credit Suisse's research analyst presented to TRU and its Sponsors on May 5, 2010, during the solicitation period, thereby participating in the Firm's efforts to solicit investment banking business from TRU.

Credit Suisse also offered favorable research to induce TRU to award the Firm its investment banking business. The Firm's analyst's presentation to TRU and the Sponsors supported the Firm's investment banking pitch and offered a positive evaluation of TRU. Moreover, following the analyst's presentation, TRU asked Credit Suisse to complete a template showing an "Equity Commitment Committee approv[ed]" valuation of TRU, which would include the analyst's views on TRU's valuation. TRU and its Sponsors asked the firms to complete the template and provide a Firm-wide valuation that the Firm, including its analyst, would be expected to support after TRU awarded the TRU IPO business, absent unexpected developments. Indeed, TRU told some firms that the purpose of the template was to prevent TRU from being "burned" by an analyst's decision to adopt a negative view of TRU after the company had awarded its investment banking business to the analyst's firm. Credit Suisse complied with TRU's request.

Supervisory personnel at Credit Suisse were aware that TRU had asked the Firm's research analyst to make a presentation to TRU that was not part of the analyst's due diligence, that TRU would take the presentation into account when awarding the underwriting mandate in the TRU IPO, that the presentation would include the analyst's favorable views of the company, and that TRU wanted a final valuation that the entire Firm, including its analyst, would support if selected as an underwriter. Nevertheless, the Firm's supervisory personnel allowed the analyst to make the presentation. Accordingly, Credit Suisse failed to adopt and implement written supervisory procedures reasonably designed to ensure compliance with NASD Rule 2711.

TRU and the Sponsors selected Credit Suisse as an active bookrunner for the TRU IPO. TRU, however, eventually decided not to proceed with the offering.

FACTS AND VIOLATIVE CONDUCT

I. Credit Suisse Violated NASD Rule 2711(c)(4) by Allowing Its Research Analyst to Participate In the Solicitation of Investment Banking Business.

NASD Rule 2711, the research analyst conflict of interest rule, is designed to insulate research analysts from a myriad of conflicts that could impair their impartiality. Taken together, the various provisions of the rule play a critical role in protecting analysts from improper influences and promoting their independent role providing research and analysis to investors. NASD Rule 2711(c)(4) is a key component of the rule that is designed to preclude analysts from participating in efforts to obtain investment banking business from issuers given that analysts typically initiate coverage of issuers when their firms play a role in bringing the issuer public.

NASD Rule 2711(c)(4) states, at the outset, that "[n]o research analyst may participate in efforts to solicit investment banking business." The rule clarifies this broad prohibition by stating further that "no research analyst may, among other things, participate in any 'pitches' for investment banking business to prospective investment banking clients or have other communications with companies for the purpose of soliciting investment banking business." Thus, the rule prohibits a research analyst from being part of the deal team seeking to win investment banking business.

Under NASD Rule 2711(c)(4), an analyst may communicate with an issuer during the solicitation period as part of the analyst's due diligence efforts to gather information about the company, but may not communicate with the issuer in furtherance of soliciting a role for his investment bank in the underwriting. In the context of a meeting requested by an issuer during the solicitation period for the purpose of obtaining an analyst's views as part of the underwriter selection process, as occurred in the TRU IPO, an analyst from a soliciting investment bank may not communicate to the issuer his views about the issuer or the issuer's industry, such as his views about valuation or comparable companies.

In April 2010, TRU and the Sponsors notified several investment banking firms of their interest in bringing the company public through an initial public offering. On April 23, 2010, TRU telephoned several firms and invited them to bid for a role in the TRU IPO and scheduled a "bakeoff" with each firm's investment bankers for April 30, 2010. TRU also notified the firms that, as part of the process of selecting underwriters, it wanted to hear the views of each firm's analyst who would cover the company following the TRU IPO. Each firm understood that TRU would consider the firm's analyst's views in determining whether the firm would receive an underwriting role in the TRU IPO. TRU gave the firms a list of topics it wished the analysts to cover, including the retail industry outlook, valuation, and comparables. TRU scheduled meetings with the analysts for May 4 and May 5, 2010.

On May 4, 2010, TRU and the Sponsors met with the equity research analysts from the firms competing for the TRU IPO business and provided background and financial information on the company for purposes of the analysts' due diligence.

On May 5, 2010, each firm's analyst made a separate presentation to TRU and the Sponsors. Under the circumstances, the analysts' presentations on May 5 constituted part of each firm's pitch for the TRU IPO and therefore violated NASD Rule 2711(c)(4). The presentations occurred during the solicitation period for the TRU IPO. TRU made clear to each firm that its analyst's presentation would be a factor in TRU's determination of whether the firm would be awarded a role in the IPO. Each analyst presentation was structured so that the analyst spoke and TRU management and Sponsors asked questions. These meetings were not designed to provide information to the analyst that the analyst could use to "vet" the proposed transaction.

Credit Suisse understood that its analyst's views would influence what underwriting role, if any, it received in the TRU IPO. In a March 24, 2010 email, a member of Credit Suisse's Investment Banking Department recounted a telephone conversation with one of the Sponsors in which the Sponsor advised that "Analyst views – conviction and consistency with IBD views" would be an important factor in selecting underwriters. In an April 23, 2010 email, the same member of Credit Suisse's Investment Banking Department wrote that the Sponsors "asked that we vet with [the research analyst] and include his ideas" in the pitch, noting that "they will call him after ipo bakeoff." Over the next several days, via chaperoned communications, the investment banking team discussed with the analyst topics that the investment banking team included in its pitch.

After the investment bankers made their pitch to TRU and the Sponsors on April 30, 2010, one banker contacted a TRU officer, who complimented Credit Suisse's pitch but noted that no decision would be made until after the meetings with the analysts. The TRU officer also said that the Credit Suisse research analyst "has a leg up" because he had come to see management twice in the past six months. On May 4, 2010, a member of the Firm's Equity Capital Markets ("ECM") Group telephoned a Sponsor and explained that Credit Suisse's analyst was "probably the last analyst left who follows the space from before, has credib[ility] to explain the store conversion story and an investor following giving [sic] his influence in stocks ... to match well with our distribution and make a diff[erence] as an active bookrunner." During that call, the Sponsor responded that Credit Suisse's "valuation had a lot of credibility behind it and was partic[ularly] consistent with our analyst's views," and that the "analyst mtgs today and tomorrow are last step."

On May 5, 2010, the Credit Suisse analyst presented to TRU and the Sponsors. The analyst's presentation included information about his own experience, a narrative about how TRU had emerged from challenging times, had strong management and a clear roadmap to growth, and how TRU could be sold to investors. For example, the presentation included:

- A slide listing the analyst's awards and recognitions, including his ranking with Institutional Investor's All-America Research team.
- A number of slides discussing TRU's management team and its record of "strong public performance," and discussing the importance accorded to management by Credit Suisse research.
- A slide in which the analyst asserted that the Firm's "primary investment focus is management," noted four instances where Credit Suisse upgraded its rating on other companies due to new management, and noted the corresponding and significant increases in the companies' stock prices.
- A slide titled, "Summary: Road Map to Growth," which discussed improvements in TRU's performance since being taken private in 2007, and stated that TRU was "positioned as one of better growth names in retailing," and was a "dominant specialty player in its sector with a very strong brand" and "experienced management."
- A number of slides presenting "The Investment Case for ELMO [TRU] today," which included positive discussions of, among other things, TRU's management, growth strategy, strategic focus, competitive landscape, vendor relationships, financial results and outlook for earnings.
- Statements that TRU is "now positioned as clear leader in segment" and that "Investors Will Pay Premium for Sector Leaders."

- A concluding slide that identifies potential institutional investors, along with notes suggesting the analyst's familiarity with those investors, such as "would like this story," "knows and likes [TRU officer]," "likes management," "They buy management...would be buying [TRU officer's] leadership," and "lives in NJ, home court advantage."

After the analyst presentations, a Sponsor emailed his colleagues that certain analysts were "bullish," and that the Credit Suisse analyst was "off the charts."

The Credit Suisse analyst telephoned a TRU officer shortly after the May 5 presentation. In an email to the bankers, the analyst stated that he didn't receive any direct feedback from the TRU officer but that the conversation was "quite friendly."

On May 6, 2010, a Credit Suisse banker spoke to another TRU officer, who was "very complementary [sic] of our teams and vetting process undertaken," and who stated that "other shops analysts were 'singing from different songbook' from their banking teams." The TRU officer praised the way Credit Suisse "showed we had fully vetted between cap markets and research, while other firms were not delivering coherent messages that had been vetted between both sides."

Additionally, Credit Suisse complied with TRU's request for a valuation that included the analyst's views.

As a result of the foregoing, Credit Suisse violated NASD Rule 2711(c)(4) and FINRA Rule 2010.

II. Credit Suisse Violated NASD Rule 2711(e) by Offering Favorable Research Coverage to Induce Receipt of TRU's Investment Banking Business.

NASD Rule 2711 recognizes that a firm can create a conflict for an analyst and compromise the analyst's independence if it promises favorable research coverage in an effort to win investment banking business. Therefore, NASD Rule 2711 contains a broad prohibition against directly or indirectly offering favorable research: "No member may directly or indirectly offer favorable research, a specific rating, or a specific price target . . . to a company as consideration or inducement for the receipt of business or compensation." Accordingly, in the context of a solicitation period where the issuer has stated that it will consider an analyst's views as part of the underwriter selection process, a firm cannot indicate to a prospective investment banking client its analyst's positive views of the company or the company's prospects, even if honestly held, or the positive prospective valuation the analyst may give the company.

Under the circumstances of the TRU IPO, Credit Suisse offered favorable research coverage to induce receipt of investment banking business. The Credit Suisse research analyst expressed favorable views about TRU during his presentation on May 5, 2010, as noted above. Additionally, Credit Suisse offered favorable coverage by completing and submitting to TRU, during the solicitation period, a valuation template requested by TRU and the Sponsors.

On May 6, 2010, TRU notified the firms that it would be sending a template to each firm to complete as part of the underwriter-selection process. TRU explained that, in order to be selected as an underwriter, each firm had to provide the requested valuation. TRU and the Sponsors wanted to ensure that, if a firm was selected as an underwriter, its analyst's views would be consistent with the valuation provided by its investment bankers.

Later that day, TRU sent the template to each of the firms along with a cover email. The template asked each firm to provide projected EBITDA and net income for 2010 and 2011, the corresponding valuation multiple for 2010 and 2011, and identify up to five comparable companies used for valuation. In the cover email accompanying the template, TRU wrote that, before selecting underwriters, it wanted each firm to provide (1) "Equity Commitment Committee approval of a definitive equity valuation range," and (2) "what company or companies you would choose for the purpose of determining comparative values, and why." TRU stated that if a firm was selected as an underwriter, the firm, including its analyst, would be expected to stand behind the valuation provided in the template. If the valuation changed, the firm would be expected to show that the change was "directly traceable to unexpected findings during due diligence or unexpected changes in exogenous factors." The templates were due on May 10, 2010.

Credit Suisse understood that TRU and the Sponsors wanted a final valuation that the entire Firm, including its analyst, would support if selected as an underwriter.

A Credit Suisse banker explained to his colleagues: "We've been told we were the only bank that had a consistent message re positioning and valuation between banking and research. So they are forcing everyone to go back and vet again with analysts and resubmit." After holding another call with the Credit Suisse analyst on May 6, Credit Suisse bankers emailed the completed template to TRU on May 7. In its cover email, Credit Suisse stated: "Our firm has approached this process in complete alignment, having pursued a rigorous vetting process prior to our meeting last [F]riday amongst banking, equity capital markets and research. . . .We believe that Credit Suisse is the best firm to serve as lead left active bookrunner for the Toys R Us Initial Public Offering given our aligned and strong equity capital markets, trading and aftermarket support capabilities." A separate email from a member of the ECM Group to TRU officers stated simply, "We have an analyst who is consistent and longstanding with our views."

By including favorable views of TRU in the analyst's presentation and providing TRU the unified valuation it sought, Credit Suisse indicated to TRU that post-IPO research coverage would be positive and aligned with investment banking.

Shortly thereafter, TRU and the Sponsors selected Credit Suisse as an active bookrunner for the TRU IPO.

As a result of the foregoing, Credit Suisse violated NASD Rule 2711(e) and FINRA Rule 2010.

III. Credit Suisse Violated NASD Rule 2711(i) Because It Failed to Adopt and Implement Policies and Procedures Reasonably Designed to Prevent Violations of Rule 2711.

NASD Rule 2711(i) provides supervision requirements that specify a firm's obligations to develop effective policies and procedures to oversee research analyst conflicts of interest. Specifically, the rule states, "Each member subject to this rule must adopt and implement written supervisory procedures reasonably designed to ensure that the member and its employees comply with the provisions of this rule . . . ."

Communications between an analyst and an issuer during the solicitation period present a risk that the analyst will become part of the firm's effort to solicit investment banking business from the issuer and/or offer favorable research to induce receipt of the issuer's investment banking business. Credit Suisse failed to adopt and implement written supervisory procedures reasonably designed to ensure compliance with Rule 2711 so as to avoid conduct that, under the circumstances constituted (a) participation by its research analyst in the solicitation of a role in the TRU IPO, and (b) an offer of favorable research.

As a result of the foregoing, Credit Suisse violated NASD Rule 2711(i) and FINRA Rule 2010.

B. The Firm also consents to the imposition of the following sanctions:

- a censure; and
- a fine in the amount of $5,000,000.

Credit Suisse agrees to pay the monetary sanction upon notice that this AWC has been accepted and that such payment is due and payable. Credit Suisse has submitted an Election of Payment form showing the method by which it proposes to pay the fine imposed.

Credit Suisse specifically and voluntarily waives any right to claim that it is unable to pay, now or at any time hereafter, the monetary sanction imposed in this matter.

The sanctions imposed herein shall be effective on a date set by FINRA staff.

II.

WAIVER OF PROCEDURAL RIGHTS

Credit Suisse specifically and voluntarily waives the following rights granted under FINRA's Code of Procedure:

A. To have a Complaint issued specifying the allegations against it;

B. To be notified of the Complaint and have the opportunity to answer the allegations in writing;

C. To defend against the allegations in a disciplinary hearing before a hearing panel, to have a written record of the hearing made and to have a written decision issued; and

D. To appeal any such decision to the National Adjudicatory Council ("NAC") and then to the U.S. Securities and Exchange Commission and a U.S. Court of Appeals.

Further, Credit Suisse specifically and voluntarily waives any right to claim bias or prejudgment of the Chief Legal Officer, the NAC, or any member of the NAC, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including acceptance or rejection of this AWC.

Credit Suisse further specifically and voluntarily waives any right to claim that a person violated the ex parte prohibitions of FINRA Rule 9143 or the separation of functions prohibitions of FINRA Rule 9144, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including its acceptance or rejection.

III.

OTHER MATTERS

Credit Suisse understands that:

A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by the NAC, a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs ("ODA"), pursuant to FINRA Rule 9216;

B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against it; and

C. If accepted:

1. this AWC will become part of Credit Suisse's permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against the Firm;

2. this AWC will be made available through FINRA's public disclosure program in response to public inquiries about the Firm's disciplinary record;

3. FINRA may make a public announcement concerning this agreement and the subject matter thereof in accordance with FINRA Rule 8313; and

4. Credit Suisse may not take any action or make or permit to be made any public statement, including in regulatory filings or otherwise, denying, directly or indirectly, any finding in this AWC or create the impression that the AWC is without factual basis. Credit Suisse may not take any position in any proceeding brought by or on behalf of FINRA, or to which FINRA is a party, that is inconsistent with any part of this AWC. Nothing in this provision affects the Firm's: (i) testimonial obligations; or (ii) right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.

D. Credit Suisse may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. The Firm understands that it may not deny the charges or make any statement that is inconsistent with the AWC in this Statement. This Statement does not constitute factual or legal findings by FINRA, nor does it reflect the views of FINRA or its staff.

The undersigned, on behalf of the Firm, certifies that a person duly authorized to act on its behalf has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; has agreed to its provisions voluntarily; and that no offer, threat, inducement, or promise of any kind, other than the terms set forth herein and the prospect of avoiding the issuance of a Complaint, has been made to induce the Firm to submit it.

Date: 12/5/19

Credit Suisse Securities (USA), LLC

By: ______________________
Alan Reifenberg
Managing Director

Reviewed by:

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Accepted by FINRA:

Date: 12/10/19

Signed on behalf of the Director of ODA, by delegated authority

By: ______________________
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