FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2018059446101

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

RE: Credit Suisse Securities (USA) LLC (Respondent)
Member Firm
CRD No. 816

Pursuant to FINRA Rule 9216, Respondent Credit Suisse Securities (USA) LLC (Credit Suisse) 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 in this AWC.

I.

ACCEPTANCE AND CONSENT

A. Respondent accepts and consents to the following findings by FINRA without admitting or denying them:

BACKGROUND

Respondent is a U.S. broker-dealer and a subsidiary of the Credit Suisse Group, a global financial services company. The firm has been a FINRA member since 1936. The firm conducts a global general securities business with a number of institutional clients, is headquartered in New York, New York, and currently has approximately 2,500 registered persons and 31 branch offices.[1]

OVERVIEW

This matter involves Credit Suisse's failure to comply with numerous securities laws and rules designed to protect investors.

First, from 2011 through November 2019, Credit Suisse failed to comply with the requirements of Section 15(c) of the Securities Exchange Act of 1934 and Rule 15c3-3 promulgated thereunder, also known as the "Customer Protection Rule." The Customer Protection Rule is intended to protect customers' securities by, among other things, prohibiting firms from using those securities improperly to fund their business operations. Here, Credit Suisse violated the Customer Protection Rule in two respects. First, the firm

[1] For more information about the firm, including prior regulatory events, visit BrokerCheck® at www.finra.org/brokercheck.

failed to maintain possession or control of billions of dollars of fully-paid and excess margin securities it carried for customers, as required. Second, the firm failed to accurately calculate its required customer reserve. These failures, due in part to the firm's failure to maintain accurate books and records, also caused the firm to file inaccurate FOCUS reports. As a result, Credit Suisse violated Exchange Act § 15(c), Exchange Act Rule 15c3-3, Exchange Act § 17(a), Exchange Act Rules 17(a)-3(a)(5) and 17a-5(a)(2), and FINRA Rules 4511 and 2010.

Second, from 1997 through 2020, Credit Suisse failed to maintain approximately 18.6 billion electronic brokerage records in non-erasable and non-rewritable, or "WORM," format. The obligation to maintain records in WORM format is intended to prevent the alteration or destruction of records stored electronically and exists in part so that FINRA and other regulators can protect investors through periodic examinations. By failing to maintain these records in WORM format, as required, Credit Suisse violated Exchange Act § 17(a) and Exchange Act Rule 17a-4(f), NASD Rules 3110 and 2110, and FINRA Rules 4511 and 2010.

Third, from 2006 through 2017, Credit Suisse issued more than 20,000 research reports to the public that contained inaccurate disclosures regarding potential conflicts of interest, in violation of NASD Rules 2711(h) and 2110, and FINRA Rules 2241 and 2010.

Finally, throughout the time periods set forth above, Credit Suisse failed to establish, maintain and enforce a supervisory system, including written supervisory procedures, reasonably designed to achieve compliance with the foregoing federal securities laws and rules and FINRA rules, in violation of NASD Rules 3010(a) and (b), 2711(i) and 2110, and FINRA Rules 3110(a) and (b) and 2010.

FACTS AND VIOLATIVE CONDUCT

This matter originated through multiple FINRA examinations of the firm and several Rule 4530 disclosures by the firm related to certain segregation deficits and research report disclosure issues discussed below.

A. Credit Suisse failed to maintain possession or control of fully-paid and excess margin securities.

1. Segregation Requirements in the Customer Protection Rule

Exchange Act Rule 15c3-3, known as "The Customer Protection Rule," requires broker-dealers to protect securities that customers leave in a firm's custody. The rule is intended to prevent customer assets from being used improperly by a broker-dealer to fund its business operations and to ensure that funds are available for distribution to customers if the broker-dealer becomes insolvent.

Exchange Act Rule 15c3-3(b)(1) requires a broker-dealer to promptly obtain and maintain physical possession or control ("possession or control") of fully-paid and excess margin securities carried for the account of customers. The number of customers' fully-paid and excess margin securities required to be in a firm's possession or control is

referred to as its "segregation requirement." If the number of shares in its possession or control exceeds a firm's segregation requirement, the firm has an "excess" of securities. If the number of shares in its possession or control is less than a firm's segregation requirement, the firm has a "deficit" of securities (also referred to as a "segregation deficit").

SEC staff's interpretation, "/03 Deliveries," to Rule 15c3-3(b)(2), makes clear that Rule 15c3-3(b)(2) prohibits the delivery or removal of securities from a firm's possession or control if doing so would create or increase a deficiency in the quantity of securities required to be in its possession or control.[2] Rule 15c3-3(c) sets forth circumstances under which customer securities are deemed within a broker-dealer's "control." In general, a broker-dealer has control of securities if they are freely transferable and there is certainty that the broker-dealer can obtain them promptly, without the payment of money or value. A location that satisfies these requirements is a "good control location."

Exchange Act Rule 15c3-3(d) requires a broker-dealer to make a daily determination of its excess or deficit for each security and take action to resolve deficits within specified timeframes.

A violation of Exchange Act § 15(c) and Rule 15c3-3 is also a violation of FINRA Rule 2010, which requires member firms to observe high standards of commercial honor and just and equitable principles of trade in the conduct of their business.

2. The Firm's Segregation Deficits

On numerous occasions between 2011 and 2019, due to coding and manual errors, the firm failed to promptly obtain and maintain possession or control of its customers' fully-paid and excess margin securities as required by Exchange Act Rule 15c3-3(b)(1).

a. The firm's coding errors caused segregation deficits.

From 2011 through 2019, the firm incurred segregation deficits in both domestic and foreign securities from a series of coding errors in various firm systems.

Beginning in 2011 through April 2017, a coding error in a firm system caused the firm to incorrectly release securities held in the accounts of certain "MaxPrime" prime brokerage customers from the segregated account the firm maintained for securities subject to its segregation requirement (the Segregated Account).

Between 2015 and April 2017, another coding error in the firm's "Davidsohn" system, used to calculate the firm's segregation requirement, caused the firm to erroneously duplicate release instructions for certain Canadian securities, therefore moving securities out of the Segregated Account that should have remained. Based on a two-week sampling analysis conducted by the firm, the MaxPrime and Davidsohn coding errors created

[2] To assist members in complying with Rule 15c3-3, FINRA includes the SEC staff's written interpretations of the rule on its website. *See* https://www.finra.org/sites/default/files/SEA.Rule_.15c3-3.pdf.

approximately 200 segregation deficits each day, with an aggregate daily value ranging from approximately $21 million to $80 million.

In 2017, a different coding error in the Davidsohn system, caused by a software update, began to cause the erroneous simultaneous release of certain Canadian securities from the firm's U.S. and Canadian depositories, resulting in segregation deficits involving at least 80 Canadian securities worth approximately $388 million between 2017 and 2019.

Between June 2017 and March 2018, a coding error in the firm's Delivery Logic clearance system that failed to account for any securities released the previous night caused the improper release of Depository Trust Company (DTC) securities that should have remained in the firm's Segregated Account. This error created segregation deficits of approximately $58 million involving approximately 2.3 million shares of 26 DTC securities.

b. The firm's coding and manual errors in the IMAN system caused additional segregation deficits.

The firm traded foreign securities in foreign markets (International Securities) on behalf of its customers. In connection with this trading, the firm maintained good control locations in each foreign settlement location, usually at custodian banks, by maintaining a Segregated Account at these banks. In addition to the Segregated Account, the firm maintained a separate account for securities to be used for trade settlement (the Free Box).

In each of these foreign settlement locations, a firm operations analyst was responsible for manually inputting instructions to "lock up" the required number of shares in the Segregated Account. To move shares from the Free Box to the Segregated Account, the analyst was required to manually enter instructions into "IMAN," a firm system that provided lock-up instructions to custodian banks.

However, from 2011 through April 2017, a coding error in the IMAN system created segregation deficits by automatically sending instructions to move shares from the Segregated Account to the Free Box whenever a customer sold International Securities, regardless of whether the Segregated Account had a sufficient segregation excess. This coding error affected International Securities in 28 foreign settlement locations and created an estimated 33,000 segregation deficits valued at more than $15 billion.

Additionally, from approximately 2011 through 2017, firm operations analysts frequently failed to enter, or incorrectly entered, lock-up instructions into IMAN. As a result, the firm improperly utilized securities from the Segregated Account for delivery, thereby causing segregation deficits. The firm could not determine the total number of segregation deficits caused by these errors.

These manual and coding errors resulted in segregation deficits in customer securities that persisted for as long as 37 days.

As a result of the firm's failures with respect to both types of segregation deficits discussed above, Credit Suisse violated Exchange Act § 15(c), Exchange Act Rule 15c3-3(b)(1), and FINRA Rule 2010.

B. Credit Suisse did not maintain sufficient balances in its Reserve Account.

1. Reserve Formula Requirements in the Customer Protection Rule

Exchange Act Rule 15c3-3(e)(1) requires broker-dealers that receive customer funds or securities to open and maintain a "Special Reserve Bank Account for the Exclusive Benefit of Customers" (the Reserve Account). Broker-dealers must at all times maintain certain minimum deposits of cash or "qualified securities" in the Reserve Account computed in accordance with a formula incorporated in Exchange Act Rule 15c3-3 (the Reserve Formula).[3] This requirement is intended to ensure that funds are available to pay customers if the broker-dealer were ever to have to liquidate.

Exchange Act Rule 15c3-3(e)(2) requires broker-dealers to calculate the amounts they owe to customers (reserve credits) and compare that amount to the amounts its customers owe to them (reserve debits). If reserve credits exceed reserve debits, as determined by the Reserve Formula, broker-dealers must deposit the difference in their Reserve Accounts. Rule 15c3-3(e)(3) requires broker-dealers to perform weekly computations as of the close of the last business day of the week, to determine the requisite amount to be deposited in the Reserve Account. A "hindsight deficiency" occurs when there is a deficiency in the funding of a required deposit.

Pursuant to Exhibit A, Item 11 of Exchange Act Rule 15c3-3, a firm is entitled to a debit in its Reserve Formula calculation for the contract value of securities borrowed from any person to cover short sales by a customer ("non-cash borrows"), but only when the borrowed securities are fully secured by cash, qualified securities, or a secured letter of credit.

A violation of Exchange Act § 15(c) and Exchange Act Rule 15c3-3(e) constitutes a violation of FINRA Rule 2010.

2. The Firm's Reserve Formula Failures

During the period from June 2011 through August 2018, the firm's failure to remedy coding errors caused two types of inaccurate Reserve Formula computations, as described below.

a. The firm overstated reserve debits relating to non-cash borrows.

To perform its Reserve Formula computations, the firm used a computerized system that obtained data from various sources. Data for the firm's non-cash borrows were inputted into this system by an automated allocation feed. From June 2011 through August 2017,

[3] Rule 15c3-3(a)(6) defines a qualified security as a security issued by the United States or a security in respect of which the principal and interest are guaranteed by the United States.

the allocation feed failed to specify which of the firm's non-cash borrows were collateralized by securities that did not meet the definition of qualified securities under Rule 15c3-3(a)(6). Because only non-cash borrows collateralized by qualified securities can be counted as debits in the Reserve Formula, the firm improperly claimed as debits its non-cash borrows collateralized by non-qualified securities, resulting in overstatements of reserve debits that caused the firm's Reserve Account to be underfunded. As a result, from June 2011 through August 2017, the firm incurred at least 17 hindsight reserve account deficiencies of between $426 million to $3.9 billion, with 13 of these hindsight deficiencies occurring in the 15 months from June 2016 through August 2017.

b. The firm understated reserve credits relating to certain tri-party loan/repurchase transactions involving Firm A.

From December 2017 to August 2018, Credit Suisse pledged free and available equity securities to Firm A as collateral for certain tri-party loan/repurchase (repo) transactions. Both Credit Suisse and Firm A assigned a loan number to each position pledged overnight, which the firm's software attempted to reconcile by matching Credit Suisse's loan numbers with Firm A's loan numbers. In some cases, however, Credit Suisse assigned a loan number for a pledged position that was different than the loan number Firm A assigned. In those cases, the firm's software failed to reconcile the two numbers, and the firm incorrectly designated the loaned shares as "free" instead of "pledged" on the firm's stock record, which the firm used to compute its Reserve Formula. These errors caused the firm's Reserve Formula to omit the value of hundreds of the pledged securities on 20 occasions and understate its reserve credits by as much as $1.1 billion.[4]

As a result of the firm's overstatement of reserve debits and understatement of reserve credits discussed above, Credit Suisse violated Exchange Act § 15(c), Exchange Act Rule 15c3-3(e), and FINRA Rule 2010.

C. <u>Credit Suisse violated other rules in connection with its Reserve Formula failures.</u>

1. The firm maintained an inaccurate stock record.

Section 17(a) of the Exchange Act and Exchange Act Rule 17a-3(a)(5) require broker-dealers to make and keep current a securities record or ledger reflecting all "long" or "short" positions separately for each security as of the applicable clearance date. The record or ledger must include securities in safekeeping and securities that are the subjects of repurchase or reverse repurchase agreements carried by the broker-dealer for its account or for the account of its customers or partners. The record or ledger must also show the location of all securities long and the offsetting position to all securities short. Maintaining an inaccurate stock record violates Exchange Act § 17(a), Exchange Act Rule 17a-3(a)(5), and FINRA Rules 4511 and 2010.

[4] Credit Suisse disclosed this issue to FINRA by telephone in 2018 and met with FINRA staff to discuss the cause, impact, scope and plan for remediation of the errors.

From December 2017 through August 2018, as described above, Credit Suisse's stock record improperly classified certain shares pledged as collateral for 20 overnight tri-party repo transactions involving Firm A as "free," when they should have been classified as "pledged."

By maintaining an inaccurate stock record, Credit Suisse violated Exchange Act § 17(a) and Exchange Act Rule 17a-3(a)(5), and FINRA Rules 4511 and 2010.

2. The firm filed inaccurate FOCUS reports.

Section 17(a) of the Exchange Act and Rule 17a-5(a)(2) require broker-dealers to file monthly or quarterly FOCUS reports, which must be accurate. Part II of the FOCUS Report includes the broker-dealer's computation of its Reserve Formula. The filing of an inaccurate FOCUS report is a violation of Section 17(a) of the Exchange Act, Rule 17a-5(a)(2), and FINRA Rule 2010.

From June 2011 through August 2017, as a result of the Reserve Formula miscalculations described above, Credit Suisse filed at least 25 FOCUS reports which inaccurately represented the amounts required to be maintained in its Reserve Account. During this period, the firm's FOCUS reports overstated its Reserve Formula debits in amounts ranging from $689 million to $4.7 billion.

By filing inaccurate FOCUS reports, Credit Suisse violated Exchange Act § 17(a), Exchange Act Rule 17a-5(a), and FINRA Rule 2010.

D. <u>Credit Suisse failed to store electronic records in required WORM format.</u>

Exchange Act § 17(a) and Exchange Act Rule 17a-3 require broker-dealers to create and maintain certain records relating to their business, including trade blotters, asset and liability ledgers, order tickets, and trade confirmations. Rule 17a-4 specifies the manner and length of time that those records must be maintained. When broker-dealers use electronic storage media to retain records, Rule 17a-4(f)(2)(ii) requires the firms to preserve the records exclusively in a non-rewritable, non-erasable or WORM ("write once, read many") format, with the intent of preventing the alteration or destruction of broker-dealer records stored electronically.

FINRA Rule 4511, and its predecessor NASD Rule 3110, require member firms to make and preserve books and records as required under FINRA and Exchange Act rules; they also require that all books and records required to be made pursuant to the FINRA rules be preserved in a format and media that complies with Exchange Act Rule 17a-4.[5] A violation of these rules is also a violation of NASD Rule 2110 and FINRA Rule 2010.[6]

From 1997 through 2020, Credit Suisse failed to retain approximately 18.6 billion electronic records pivotal to its brokerage business in the required WORM format. The

[5] FINRA Rule 4511 superseded NASD Rule 3110 on December 5, 2011.

[6] FINRA Rule 2010 superseded NASD Rule 2110 on December 15, 2008.

firm failed to identify which of its applications generated records that were required to be retained in WORM format, and therefore failed to transmit the underlying records to a WORM-compliant repository. This deficiency affected up to 36 different applications, including those related to accounts payable and receivable, fingerprint records, customer account records, general ledger/trial balances, order and trade tickets, trade confirmations, and wire instructions. For example, from May 2013 to April 2020, Credit Suisse failed to retain in WORM format more than 8.2 billion trade records related to its Cash Equities, Structured Equities Derivatives, and Securitized Products groups.

As a result, Credit Suisse violated Exchange Act § 17(a), Exchange Act Rule 17a-4(f), NASD Rules 3110 and 2110, and FINRA Rules 4511 and 2010.

E. Credit Suisse failed to accurately disclose conflicts of interest in research reports.

1. Requirements Concerning Disclosure of Conflicts in Research Reports

FINRA Rule 2241, and its predecessor NASD Rule 2711, require member firms that issue research reports to make certain conflict of interest disclosures concerning a subject company.[7] Among other things, a firm is required to disclose: (1) if it or any of its affiliates received compensation for investment banking (IB) services from the subject company in the past 12 months, or if it expects to receive or intends to seek compensation for IB services from the subject company in the next three months; (2) if it has received any non-IB revenue within the previous 12 months from the subject company; or (3) if it was making a market in the subject company's securities at the time the research report was published.

NASD Rule 2711(h)(9) and FINRA Rule 2241(e) state that, in addition to the disclosures specifically enumerated in those rules, member firms must comply with all applicable disclosure provisions of NASD Rule 2210 and FINRA Rule 2210 and the federal securities laws.[8]

A violation of these rules is also a violation of NASD Rule 2110 or FINRA Rule 2010, as applicable.

2. The Firm's Conflict Disclosure Failures

a. The firm's research reports contained inaccurate disclosures regarding its investment banking relationships.

NASD Rule 2711(h)(2)(A)(ii) and FINRA Rule 2241(c)(4)(C) require a member firm to disclose in research reports if the firm or any of its affiliates received compensation for IB services from the subject company in the past 12 months, or if the firm or any of its

[7] FINRA Rule 2241 superseded NASD Rule 2711 on September 25 and December 24, 2015.

[8] FINRA Rule 2210 superseded NASD Rule 2210 on February 4, 2013.

affiliates expect to receive or intend to seek compensation for IB services from the subject company in the next three months.

FINRA Rule 2241(c)(4)(E), and its predecessor NASD Rule 2711(h)(2)(A)(iii)(b), require a member firm to disclose in a research report if the subject company is, or over the 12-month period preceding the date of publication or distribution of the research report has been, a client of the firm, and if so, to identify the type of services provided to the company as either investment banking services, non-investment banking securities-related services, or non-securities services.

From 2006 through August 2016, Credit Suisse used an automated database to identify whether conflict disclosures were required in research reports and used Stock Exchange Daily Official List (SEDOL) identification numbers to identify securities issued by companies with relationships with the firm requiring disclosure in research reports. The firm used a program to link each SEDOL to the corresponding client identification number so that the information could be taken from the firm's records and processed by the conflict disclosure software. However, in instances where more than one SEDOL number was linked to the same client number, a programming error caused the second SEDOL number to be overlooked.

Consequently, approximately 6,400 equity research reports issued by the firm's Global Markets Unit from 2006 through August 2016 omitted required conflict of interest disclosures, including that the subject company was a firm client during the prior 12 months, or that the firm expected to receive investment banking compensation from the company within the next three months.

As a result, Credit Suisse violated NASD Rules 2711(h)(2)(A)(ii), 2711(h)(2)(A)(iii)(b), and 2110, and FINRA Rules 2241(c)(4)(C), 2241(c)(4)(E), and 2010.

b. The firm's research reports contained inaccurate disclosures regarding its non-investment banking relationships.

NASD Rule 2711(h)(2)(A)(iii)(a) and FINRA Rule 2241(c)(4)(D) require a member firm to disclose in research reports if the firm has received any non-IB revenue from the subject company within the previous 12 months.

As stated above, FINRA Rule 2241(c)(4)(E), and its predecessor NASD Rule 2711(h)(2)(A)(iii)(b), require a member firm to disclose in a research report if the subject company is, or over the 12-month period preceding the date of publication or distribution of the research report has been, a client of the firm, and if so, to identify the type of services provided to the company.

To make required disclosures about Credit Suisse's current or prior non-IB relationships with the subject of a research report, the firm uses a proprietary database known as "RAVE" to populate information relating to such relationships. Information related to non-IB clients was stored outside of RAVE and incorporated into RAVE through a monthly automated data "matching" process that compared information stored outside of RAVE with information concerning covered companies that was stored in RAVE.

As early as December 2014, the firm's matching process failed to identify subject companies with which the firm had a non-IB relationship where those companies had been added as covered companies to RAVE more than 12 months before. Consequently, from December 2014 to May 2017, the firm failed to disclose that covered companies were firm clients and that the firm had received non-investment banking revenue from them within the preceding 12 months. In other instances, the firm made inaccurate (and unnecessary) disclosures by representing that companies had been clients of the firm and that the firm had provided non-investment banking services to the companies within the prior 12 months, when neither representation was true.

Based on the firm's sampling of research reports issued during this period, more than 20,000 research reports contained inaccurate disclosures concerning the firm's non-IB relationships.

As a result, Credit Suisse violated NASD Rules 2711(h)(2)(A)(iii)(a) and 2711(h)(2)(A)(iii)(b), and FINRA Rules 2241(c)(4)(D), 2241(c)(4)(E), and 2010.

c. The firm's research reports contained inaccurate disclosures regarding its market making activities.

NASD Rule 2711(h)(8) and FINRA Rule 2241(c)(4)(G) require a member firm to disclose in equity research reports whether it was making a market in the subject company's securities at the time of publication or distribution of the report.

From 2014 through March 2017, Credit Suisse failed to make accurate disclosures in research reports regarding whether it was making a market in the subject security. The firm used a front-office system known as GOMAN to supply information to RAVE related to whether the firm was making a market in a security. However, by no later than 2014, manual errors caused ticker symbols in GOMAN to be omitted when they should have been retained or retained when they should have been omitted. These errors caused market-making disclosures to be omitted where such disclosures were required or included where no such disclosures were required.

Based on the firm's sampling of research reports issued during this period, hundreds of research reports may have contained inaccurate disclosures concerning the firm's market-making activity, most of which were over-disclosures.

As a result, Credit Suisse violated NASD Rule 2711(h)(8), and FINRA Rules 2241(c)(4)(G) and 2010.

F. <u>Credit Suisse failed to establish and maintain a supervisory system reasonably designed to achieve compliance with the requirements discussed in Sections A-E, above.</u>

1. Supervisory Requirements

FINRA Rule 3110(a), like its predecessor NASD Rule 3010(a), requires member firms to establish and maintain a system to supervise the activities of each associated person that

is reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable FINRA rules.[9] FINRA Rule 3110(b), like its predecessor NASD Rule 3010(b), requires member firms to establish, maintain, and enforce written procedures to supervise the types of business in which they engage and the activities of their associated persons that are reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable FINRA rules.[10]

A violation of these Rules is also a violation of NASD Rule 2110 or FINRA Rule 2010, as applicable.

2. The Firm's Supervisory Failures

a. The firm failed to reasonably supervise for compliance with the segregation requirements of the Customer Protection Rule.

From 2011 through 2016, Credit Suisse did not establish and maintain a supervisory system reasonably designed to identify and resolve aged segregation deficits. Nor did the firm provide for testing of the various automated components of its system, even after they had caused significant segregation deficits. Although the firm provided its foreign settlement teams with exception reports identifying segregation deficits in International Securities, the reports were not reasonably designed to track the deficits, in that they omitted segregation deficits that were one to three days old. Furthermore, the reports aggregated all deficits in a given security into a rolling total without providing any information about the age or size of any given deficit, thus providing insufficient information to firm supervisors to remediate the deficits.

Additionally, the firm failed to delegate responsibility for following up on the remediation of aged segregation deficits. The firm also failed to provide any written guidance to supervisors concerning how the exception reports were to be reviewed, who was responsible for reviewing them, and whether the review of the reports or remediation of deficits had to be documented. Consequently, no firm employee ever tracked the review or remediation of aged segregation deficits and the firm had no documentation evidencing review of the exception reports.

A firm internal audit in 2016 found that 80 percent of segregation deficits identified in an April 2016 exception report lacked any written comments. Without comments, the exception reports became an ineffective supervisory tool, as they failed to accurately capture the age and number of the firm's segregation deficits and the vast majority of the

[9] FINRA Rule 3110 superseded NASD Rule 3010 on December 1, 2014.

[10] NASD Rule 2711(i) required member firms to adopt and implement written supervisory procedures reasonably designed to ensure that the firm and its employees comply with the provisions of NASD Rule 2711. However, that supervision provision was not carried over to FINRA Rule 2241; it was removed effective September 25, 2015. Supervision relating to research analysts and research reports is now governed exclusively by FINRA Rule 3110. *See* FINRA Regulatory Notice 15-30.

segregation deficits identified on exception reports did not accurately portray the age or number of the firm's segregation deficits.

In addition, the firm's supervisory system, including its written procedures, made no provision for testing or otherwise detecting system flaws in the automated systems it used for compliance with the possession or control obligations of Rule 15c3-3. Given the importance of the automated systems to the firm's supervisory system governing its Rule 15c3-3 compliance, and undetected coding errors such as the undetected error that caused the firm to incorrectly release securities held in certain MaxPrime accounts as early as 2011, the lack of supervisory provision for testing and lack of actual testing were unreasonable.

As a result, from 2011 through 2016, Credit Suisse incurred tens of thousands of aged segregation deficits, as described in Section A.2., above.[11]

b. The firm failed to reasonably supervise for compliance with the customer reserve requirements of the Customer Protection Rule.

Credit Suisse failed to establish and maintain a supervisory system that was reasonably designed to achieve compliance with the customer reserve requirements of Rule 15c3-3.

Despite the critical nature of non-cash borrows to the Reserve Formula computations, from June 2011 through August 2017, the firm lacked any system or procedures to test or verify that the non-cash borrow total provided through the automated feed to its Reserve Formula calculator was properly included in its Reserve Formula calculation. As a result, the firm failed to exclude non-cash borrows collateralized by non-qualified securities from its Reserve Formula calculations, which resulted in the hindsight deficiencies described in Section B.2.a., above.[12]

Additionally, from December 2017 through August 2018, Credit Suisse did not maintain a reasonable supervisory system relating to the treatment of "breaks," *i.e.*, mismatches in actual and reported pledged collateral. Specifically, the firm had no system or procedure in place to check that its stock record or any other relevant records accurately reflected securities pledged as collateral in connection with its tri-party repo transactions. Moreover, the firm's Stock Loan Operations unit, which was responsible for monitoring and supervising the process of reconciling breaks, did not escalate the issue to appropriate firm personnel to remediate. Additionally, the firm's written procedures did not require breaks to be reconciled on "Trade Day 0"—the trade's execution day—despite the fact that this was a critical day in allocation, as repo trades are typically overnight trades that are outstanding for only one day.

[11] Beginning in 2016, Credit Suisse changed its supervisory system for possession or control, including reassigning supervisory responsibilities, enhancing exception reports, and monitoring of system-created segregation deficits.

[12] In 2017, the firm retained an outside consultant to review its customer reserve computation processes and adopted certain of the consultant's recommendations, including to assign responsibilities in this area to a single department.

As a result, Credit Suisse miscalculated its Reserve Formula by understating customer credits by as much as $1.1 billion, as described in Section B.2.b., above.

c. The firm failed to reasonably supervise for compliance with requirements to keep electronic records in WORM format.

From 1997 through 2020, Credit Suisse failed to establish and maintain a supervisory system, including written procedures, reasonably designed to comply with the electronic recordkeeping requirements of Exchange Act Rule 17a-4(f).

Although Credit Suisse recognized the requirement to store electronic records in WORM format, the firm had no supervisory system or procedures in place to identify which firm records were required to be maintained in WORM format or to transfer these records to appropriate repositories for storage. The firm did not review the overall operation of its record retention system to determine whether it complied with Rule 17a-4(f) or require firm personnel responsible for record retention to verify that electronic records were being retained in WORM format.

Additionally, the firm did not conduct audits or testing of its compliance with Rule 17a-4(f).

The firm became aware of its WORM deficiencies in 2017, and in 2019 claimed that it had remediated the WORM failures associated with several applications. However, the firm's initial remediation was not effective, which delayed the firm's remediation of its WORM failures until 2020.

As a result, Credit Suisse failed to store 18.6 billion records in WORM format, as required, as described in Section D, above.

d. The firm failed to reasonably supervise research report conflict disclosures.

From 2006 to 2017, Credit Suisse failed to establish and maintain a supervisory system, and failed to adopt and implement written supervisory procedures, reasonably designed to comply with the laws and regulations applicable to conflict disclosures in its research reports. As described above, the firm used automated systems to create conflicts of interest disclosures. The firm assigned supervisory analysts (SAs) the responsibility for manually checking the inclusion of the firm's conflict of interest disclosures in research reports. The firm's written procedures instructed SAs to correct any errors or omissions they might manually identify and escalate the issue to appropriate firm personnel. However, the firm did not provide SAs with tools or instructions, in its written procedures or elsewhere, to carry out these duties. Nor did the firm test the accuracy of the conflict disclosures after they were populated into research reports.

Due to the firm's unreasonable supervisory system, Credit Suisse published more than 20,000 research reports from 2006 through 2017 that contained inaccurate conflict of interest disclosures, as described in Section E, above.[13]

* * * *

As a result of the conduct described in this section (Section F), Credit Suisse violated NASD Rules 2711(i), 3010(a) and (b), and 2110, and FINRA Rules 3110(a) and (b) and 2010.

SANCTIONS CONSIDERATIONS

In determining the appropriate sanctions in this matter, FINRA considered, among other factors, Credit Suisse's: (1) substantial remediation of its supervisory systems related to possession or control (Section F.2.a, above), and conflict disclosures in research reports (Section F.2.d., above); (2) engagement of outside consultants to review and facilitate the firm's remediation of its supervisory systems related to customer reserve formula processes (Section F.2.b., above) and supervisory system for conflict disclosures in research reports (Section F.2.d., above); and (3) disclosure to FINRA of the issues described in Section B.2.b. above.

B. Respondent also consents to the imposition of the following sanctions:

- a censure;
- a $9 million fine; and
- a certification, as described below.

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

Respondent specifically and voluntarily waives any right to claim an inability to pay, now or at any time after the execution of this AWC, the monetary sanction imposed in this matter.

Credit Suisse further agrees to the following undertaking:

[13] After the time period relevant to these violations, the firm retained an outside consulting firm to review its supervisory system for research report conflict disclosures. The consulting firm recommended that the firm enhance its written policies and procedures and adopt new supervisory processes, including testing of its conflict disclosures for accuracy. After the consulting firm made these recommendations, the firm implemented a new automated disclosure system and established a working group responsible for overseeing the accuracy of its conflict disclosures and developing risk-based testing.

Certification Regarding Implementation of Reasonably Designed Procedures

Within 180 days of the date this AWC is accepted, a registered principal or officer of Credit Suisse shall certify in writing to FINRA that the firm has implemented supervisory systems and written supervisory procedures reasonably designed to achieve compliance with the federal securities laws and FINRA rules pertaining to the possession or control requirements of Exchange Act Rule 15c3-3 and the retention of electronic records in WORM format as required by Exchange Act Rule 17a-4. This certification shall be submitted by letter addressed to Eric Hansen, Director, FINRA – Enforcement Department, Brookfield Place, 200 Liberty Street, 11th Floor, New York, NY 10281. Upon written request showing good cause, FINRA staff may extend the procedural dates set forth above.

The sanctions imposed in this AWC shall be effective on a date set by FINRA.

II.

WAIVER OF PROCEDURAL RIGHTS

Respondent 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, Respondent 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 its acceptance or rejection.

Respondent 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

Respondent 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 Respondent; and

C. If accepted:

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

2. this AWC will be made available through FINRA's public disclosure program in accordance with FINRA Rule 8313;

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

4. Respondent 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. Respondent 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 Respondent's right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party. Nothing in this provision affects Respondent's testimonial obligations in any litigation or other legal proceedings.

D. Respondent may attach a corrective action statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. Respondent 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.

The undersigned, on behalf of Respondent, certifies that a person duly authorized to act on Respondent's behalf has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; that Respondent has agreed to the AWC's

provisions voluntarily; and that no offer, threat, inducement, or promise of any kind, other than the terms set forth in this AWC and the prospect of avoiding the issuance of a complaint, has been made to induce Respondent to submit this AWC.

December 20, 2021

Date

Jaclyn A Barnao

Credit Suisse Securities (USA) LLC
Respondent

Print Name: Jaclyn A Barnao

Title: Managing Director

Reviewed by:

Herbert Washer, Esq.
Counsel for Respondent
Cahill Gordon & Reindel LLP
32 Old Slip
New York, NY 10005

Accepted by FINRA:

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

January 19, 2022

Date

Richard Chin

Richard Chin, Chief Counsel
Eric Hansen, Director
Adeline Liu, Senior Counsel
Gerald W. Sawczyn, Senior Counsel
Andrew Cattell, Principal Counsel
FINRA Department of Enforcement
Brookfield Place
200 Liberty Street, 11th Floor
New York, NY 10281