

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2016048687501**

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 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

Credit Suisse, a wholly owned subsidiary of Credit Suisse (USA), Inc., is a diversified investment bank broker-dealer with a customer base that includes hedge funds, pension funds, corporate clients and affiliates, and high net worth individuals. The firm, which became a FINRA member in October 1936, employs approximately 2,200 registered individuals and maintains approximately 30 branch offices.

In June 2017, Credit Suisse entered into an AWC with FINRA (No. 2015045625601) through which it consented to findings that, from September 2014, through December 2014, the firm violated FINRA Rule 6182 by reporting transactions to the FINRA/Nasdaq Trade Reporting Facility (TRF) without short sale indicators. The firm consented to a censure and a fine of \$50,000, of which \$25,000 was for trade reporting violations.

In January 2017, Credit Suisse entered into an AWC with FINRA (No. 2014039938101) through which it consented to findings that, in July 2014, and from March 2014, through September 2014, the firm violated FINRA Rule 6182 by reporting transactions to the TRF with incorrect long and short sale indicators. The firm consented to a censure and a fine of \$487,500, of which \$12,500 was for trade reporting violations.¹

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

OVERVIEW

From February 2015, through November 2019, Credit Suisse reported short sale transactions to the TRF and the Over-the-Counter (OTC) Reporting Facility (ORF, collectively, the TRFs) without short sale indicators in violation of FINRA Rules 6182, 6624, and 2010.

From February 2015, through April 2022, the firm also failed to establish and maintain a supervisory system, including written supervisory procedures, reasonably designed to comply with FINRA rules regarding trade reporting of short sales in violation of FINRA Rules 3110 and 2010.

FACTS AND VIOLATIVE CONDUCT

This matter resulted from FINRA's Department of Market Regulation's review of Credit Suisse's short sale trade reporting activity.

Credit Suisse failed to submit short sale indicators to the TRF and ORF.

FINRA Rules 6182 and 6624 require members to indicate on trade reports submitted to FINRA whether a transaction is a short sale or short sale exempt transaction.² A violation of FINRA Rule 6182 or 6624 is also a violation of FINRA Rule 2010, which requires a "member, in the conduct of its business, [to] observe high standards of commercial honor and just and equitable principles of trade."

FINRA's TRFs provide member firms with a mechanism by which to report transactions effected other than on an exchange. Certain data that members report to TRFs has a direct impact on the accuracy of public information FINRA disseminates. Additionally, the inaccurate reporting of required trade information may negatively impact FINRA's surveillance patterns. Among other things, FINRA relies on the accuracy of trade reporting to assist it in reconstructing and reviewing the activities of market participants in order to safeguard the integrity of the securities markets and protect investors.

In Alternative Trading System (ATS) OATS and Trade Reporting guidance, which became effective on February 2, 2015, FINRA explained that all tape reports³ must include a short sale (or short sale exempt) indicator if the seller is short (or short exempt). The guidance further provides that if the short (or short exempt) seller is another FINRA

² FINRA Rule 6182 applies to short sale transactions in NMS stocks. FINRA Rule 6624 applies to short sale transactions in OTC Equity Securities as defined in Rule 6420.

³ A tape report, also called a media report, is a trade report that is submitted to a TRF and is publicly disseminated by the appropriate exclusive Securities Information Processor (SIP).

member, any required non-tape regulatory reports⁴ must also contain a short sale (or short sale exempt) indicator.⁵

From February 2015 through November 2019, Credit Suisse submitted approximately 15.9 million clearing transactions to the TRFs without short sale indicators because the firm misunderstood its reporting obligations pursuant to FINRA's ATS OATS and Trade Reporting guidance. As a result, the firm failed to update its trade reporting systems to include short sale indicators on non-tape, clearing-only regulatory reports. The firm remediated this issue by updating its trade reporting systems in November 2019.

Therefore, Credit Suisse violated FINRA Rules 6182, 6624, and 2010.

Credit Suisse failed to establish and maintain a supervisory system, including written supervisory procedures, reasonably designed to comply with its trade reporting obligations for short sales.

FINRA Rule 3110(a) requires each member firm 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, regulations, and FINRA rules. A violation of FINRA Rule 3110 is also a violation of FINRA Rule 2010.

From February 2015, through April 2022, Credit Suisse failed to establish and maintain a supervisory system reasonably designed to achieve compliance with its trade reporting obligations for short sales.

During the relevant period, Credit Suisse conducted supervisory reviews designed to detect inaccuracies in its short sale reporting. Those reviews, however, only included the firm's media-reported trade reports. The firm had no supervisory reviews in place to determine whether it accurately reported its non-tape, clearing-only regulatory reports to the TRFs. The firm remediated this issue in April 2022.

Therefore, Credit Suisse violated FINRA Rules 3110 and 2010.

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

- a censure and
- a \$200,000 fine

⁴ Non-tape reports are not publicly disseminated. They are submitted to FINRA solely to fulfill a regulatory requirement and are used by members to clear and settle transactions, as information reported to FINRA in a clearing report is transmitted by FINRA to the National Securities Clearing Corporation.

⁵ See *ATS OATS and Trade Reporting Guidance 9-12-14*. FINRA's Trade Reporting Frequently Asked Questions, Section 306, clarifies that the ATS OATS and Trade Reporting guidance applies irrespective of whether an execution occurs on an ATS.

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.

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.

June 7, 2022

Date

Lara Leaf

Credit Suisse Securities (USA) LLC
Respondent

Print Name: Lara Leaf

Title: Director

Reviewed by:

Derek Lacarrubba

Derek N. Lacarrubba
Counsel for Respondent
Schulte Roth & Zabel LLP
919 Third Avenue
New York, NY 10022

Accepted by FINRA:

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

June 10, 2022

Date

Carly M. Kostakos

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