

NASD
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
No. 2005000137201

TO: Department of Market Regulation
NASD

RE: Credit Suisse Securities (USA) LLC, Respondent
Broker-Dealer
CRD No. 816

Pursuant to Rule 9216 of NASD Code of Procedure, Credit Suisse Securities (USA) LLC (the "firm" or "FBCO") (formerly known as Credit Suisse First Boston LLC) submits this Letter of Acceptance, Waiver and Consent ("AWC") for the purpose of proposing a settlement of the alleged rule violations described in Part II below. This AWC is submitted on the condition that, if accepted, NASD will not bring any future actions against FBCO alleging violations based on the same factual findings.

FBCO understands that:

1. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by NASD's Department of Market Regulation and National Adjudicatory Council ("NAC") Review Subcommittee or Office of Disciplinary Affairs ("ODA"), pursuant to NASD Rule 9216;
2. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against FBCO; and
3. If accepted:
 - a. this AWC will become part of FBCO's permanent disciplinary record and may be considered in any future actions brought by NASD or any other regulator against FBCO;
 - b. this AWC will be made available through NASD's public disclosure program in response to public inquiries about FBCO's disciplinary record;
 - c. NASD may make a public announcement concerning this agreement and the subject matter thereof in accordance with NASD Rule 8310 and IM-8310-2; and
 - d. FBCO may not take any action or make or permit to be made any public statement, including in regulatory filings or otherwise,

20050001372 (incl. 20041000007, 20041000131, 20050000997, 20050002611, 20050006528 and 20050027718) (lc)

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denying, directly or indirectly, any finding in this AWC or create the impression that the AWC is without factual basis. Nothing in this provision affects FBCO's testimonial obligations or right to take legal or factual positions in litigation or other legal proceedings in which NASD is not a party.

FBCO also understands that its experience in the securities industry and disciplinary history may be factors that will be considered in deciding whether to accept this AWC. That experience and history are as follows:

The firm has been a member of NASD since October 16, 1936 and its registration remains in effect.

On June 3, 2005, an AWC became final in which FBCO was censured and fined \$17,500 for violations of NASD Marketplace Rule 6130(b), SEC Rule 10b-10 and NASD Conduct Rules 2110 and 3010.

On September 2, 2004, an AWC became final in which FBCO was censured and fined \$50,000 for violations of NASD Marketplace Rule 6955 for violations of the Order Audit Trail System ("OATS") rules.

On December 23, 2003, an AWC became final in which FBCO was censured and fined \$15,500 for violations of NASD Marketplace Rule 6130(d) and SEC Rule 11Ac1-4 ("Limit Order Display Rule"), now SEC Rule 604 under Regulation NMS. The fine was composed of a \$7,500 fine for Automated Confirmation Transaction Service ("ACT") reporting violations, and an \$8,000 fine for violations of the Limit Order Display Rule.

On October 31, 2003, an AWC became final in which FBCO was censured and fined \$38,000 for violations of NASD Conduct Rules 2110 and 3370, NASD Marketplace Rules 4642(b) and 6955(a), and SEC Rule 10b-10. The fine was composed of a \$25,000 fine for OATS violations, a \$10,000 fine for the trade reporting violations, a \$2,000 fine for the affirmative determination violations and a \$1,000 fine for the SEC Rule 10b-10 violations.

On June 27, 2001, an AWC became final in which FBCO was censured and fined \$75,000 for violations of the trade-or-move rule, limit order protection interpretation, Limit Order Display Rule, locked and crossed markets rule and the trade-or fade rule.

I.

WAIVER OF PROCEDURAL RIGHTS

FBCO specifically and voluntarily waives the following rights granted under NASD's Code of Procedure:

- A. To have a Formal Complaint issued specifying the allegations against it;
- B. To be notified of the Formal 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 NAC and then to the U.S. Securities and Exchange Commission and a U.S. Court of Appeals.

Further, FBCO specifically and voluntarily waives any right to claim bias or prejudgment of the General Counsel, 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.

FBCO further specifically and voluntarily waives any right to claim that a person violated the ex parte prohibitions of NASD Rule 9143 or the separation of functions prohibitions of NASD 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.

II.

ACCEPTANCE AND CONSENT

In 20050001372 (formerly MRD200444767), the staff of NASD's Department of Market Regulation ("staff") reviewed FBCO's compliance with the Limit Order Display Rule during the period October 1, 2003 through December 31, 2003.

In 20041000007 (formerly MRD200446366), the staff reviewed FBCO's compliance with NASD Conduct Rules 3350 and 3370 (the bid test and affirmative determination requirements) during the period November 1, 2003 through February 29, 2004. In addition, in 20041000131 (formerly MRD200448801), the staff conducted a review of short sale activity during the period of June 1, 2004 through August 31, 2004.

In 20050000997 (formerly MRD200447161), the staff reviewed FBCO's compliance with NASD Marketplace Rule 6130(b) during the period April 1, 2004 through June 30, 2004.

In 20050002611 (formerly MRD200447382), the staff conducted a Trading and Market Making Surveillance ("TMMS") Examination of the firm. The staff reviewed the following items:¹

- 31 customer sale orders, for compliance with NASD Rules 3110 and 3370;
- two proprietary sale transactions, for compliance with NASD Rule 3370 and SEC Rule 10a-1;
- 105 sales in Nasdaq National Market ("NNM") securities, for compliance with NASD Rule 6130;
- nine short sales in Consolidated Quotation System ("CQS") securities, for compliance with SEC Rule 10a-1;
- 34 limit orders in market making securities, for compliance with NASD Rules 2110, IM-2110-2, 6440 and 2320; and SEC Rule 11Ac1-4 (now SEC Rule 604 under Regulation NMS);
- two marketable orders received while holding "non-displayed" limit orders in the same security, for compliance with NASD Rule 2320;
- 10 market orders executed as principal, for compliance with NASD Rules 2320 and 6130;
- 81 limit and market executions in a principal or riskless principal capacity, for compliance with capacity reporting under NASD trade reporting and ACT rules;
- 48 customer orders for compliance with the SEC Section 28(e) safe harbor on soft dollar compensation;
- 25 trades reported and modified through a mixed capacity regulatory report, for compliance with NASD Rule 6130;
- 25 trades reported in market making securities, for compliance with SEC Rule 11Ac1-5 (now SEC Rule 605 under Regulation NMS);
- seven categories (35 orders), security/size/order data statistics published on the firm's monthly order execution report, from monthly data published in June 2004, for compliance with SEC Rule 11Ac1-5 (now SEC Rule 605 under Regulation NMS);
- data published on the firm's quarterly order routing report from the second quarter 2004, for compliance with SEC Rule 11Ac1-6 (now SEC Rule 606 under Regulation NMS);
- the firm's establishment and implementation of "regular and rigorous" reviews of the execution quality of orders sent to other market centers for execution, based on written supervisory procedures in effect during June 2004, for compliance with NASD Rules 2320 and 3010;

¹ Unless otherwise noted, all items reviewed are from trade dates June 15 and 16, 2004.

- 10 customer orders in OTCBB and/or OTC equity securities, for compliance with NASD Rules 3110(b) and 2320;
- 46 orders reviewed for OATS compliance, NASD Rules 6954 and 6955;
- 16 persons engaged in the firm's trading and market making activities, for compliance with NASD registration rules;
- 268 order/trade records prepared and maintained for the above samples, for compliance with NASD Rule 3110 and SEC Rules 17a-3 and 17a-4;
- 312 trades reported to ACT, for compliance with NASD trade reporting and ACT rules; and
- 139 customer trade confirmations, for compliance with SEC Rule 10b-10.

In 20050006528, the staff reviewed FBCO's compliance with NASD Marketplace Rule 6955 during the period October 1, 2004 through December 31, 2004.

In 20050027718, the staff conducted a TMMS Examination of the firm. The staff reviewed the following items:²

- 26 customer and proprietary sale transactions, for compliance with SEC Rules 200(g) and/or 203(b);
- 77 customer and proprietary sales, for compliance with NASD Rule 6130;
- two short sales in CQS securities, for compliance with SEC Rule 10a-1;
- three cancelled trades for compliance with NASD Rules 4632(g), 4642(g), 4652(g), 6130(f), 6420(f), and 6620(f);
- 15 limit orders executed as principal, for compliance with NASD Rules 2110 (and IM-2110-2), 6440, 6541 and 2320, and SEC Rules 602 and 604;
- seven "non-displayed" limit orders, for compliance with NASD Rule 2320;
- 10 not-held customer market orders, for compliance with NASD Rule 2320;
- 18 limit and market orders and 75 trades executed in a principal or riskless principal capacity, for compliance with capacity reporting under NASD Trade Reporting and ACT rules;
- one order for Nasdaq securities in soft dollar accounts and 59 related executions, for compliance with trade reporting rules and the safe harbor limitations of SEC Section 28(e);
- 25 trades reported and modified through a mixed capacity regulatory report, for compliance with NASD Rule 6130;
- 25 orders in securities for which the firm was a market center, for compliance with the order size/type classification requirements of SEC Rule 605;
- four categories (eight orders), security/size/order data statistics published on the firm's monthly order execution report for the month of August 2005, for compliance with SEC Rule 605;
- data published on the firm's quarterly order routing report, from the report including July through September, 2005, for compliance with SEC Rule 606;

² Unless otherwise noted, all items reviewed are from trade dates October 3 and 4, 2005.

- 14 persons engaged in the firm's trading and market making activities, from trading staff in October 2005, for compliance with NASD registration rules;
- 50 orders in NNM or SmallCap securities submitted to OATS, for compliance with NASD Rule 6955;
- 208 order/trade records prepared and maintained in connection with the above samples, from trade dates October 3 and 4, 2005 and various trade dates in August 2005, for general compliance with NASD Rule 3110 and SEC Rules 17a-3 and 17a-4;
- 369 trades reported to ACT or the Trade Reporting and Reporting Service ("TRACS") in connection with the above samples, for general compliance with NASD trade reporting and ACT rules;
- 40 customer trade confirmations, for compliance with SEC Rule 10b-10;
- the firm's establishment and implementation of "regular and rigorous" reviews of the execution quality of orders sent to other market centers and internalized, based on the written supervisory procedures in effect during October 2005, for compliance with NASD Rules 2320 and 3010; and
- the firm's establishment and implementation of a supervisory system and written supervisory procedures, based on the written supervisory procedures in effect during October 2005, for compliance with NASD Rule 3010.

A. FBCO 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 NASD, or to which NASD 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 NASD:

20050001372, Limit Order Display Review

1. During the period of October 1, 2003 through December 31, 2003, FBCO failed to display immediately 11 customer limit orders in Nasdaq securities in its public quotation, when each such order was at a price that would have improved FBCO's bid or offer in each such security; or when the order was priced equal to FBCO's bid or offer and the national best bid or offer for each such security, and the size of the order represented more than a *de minimis* change in relation to the size associated with FBCO's bid or offer in each such security.
2. The conduct described in paragraph one constitutes separate and distinct violations of SEC Rule 604.

20041000007 and 20041000131, Short Sale Reviews

3. During the period November 1, 2003 through February 29, 2004, FBCO executed 20 short sale transactions in certain securities, all of which were Nasdaq National Market securities, at or below the current inside bid when the current inside bid was below the preceding inside bid in the security.
4. The conduct described in paragraph three constitutes separate and distinct violations of NASD Conduct Rule 3350.
5. During the period November 1, 2003 and February 29, 2004, FBCO routed nine orders to Electronic Communications Networks ("ECNs") for execution. The resulting nine short sale transactions in certain securities, all of which were Nasdaq National Market securities, were executed on the ECNs at or below the current inside bid when the current inside bid was below the preceding inside bid in the security. FBCO failed to monitor the ECNs' compliance with NASD Conduct Rule 3350 as to the orders that FBCO routed to the ECNs.
6. During the period November 1, 2003 through February 29, 2004, and the period of June 1, 2004 and August 31, 2004, the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with NASD Marketplace Rule 6130(d)(6) (trade report input), NASD Conduct Rule 3350 (the bid test), and NASD Conduct Rules 3110(b)(1) (marking of customer tickets) and 3370 (affirmative determinations). Specifically, the firm's supervisory system included written supervisory procedures concerning a) trade report input that did not include any written supervisory procedures providing for a review of the long/short indicator on trades reports to ACT; b) the bid test that failed to include written supervisory procedures providing for a statement as to how the completion of the step(s) included in the written supervisory procedures should be documented; and c) short sales that failed to include any procedures to review for compliance with the rules relating to affirmative determinations and the marking of customer tickets.
7. The conduct described in paragraphs five and six constitutes separate and distinct violations of NASD Conduct Rules 2110 and 3010.

20050000997, 20 Minute – OE Late Review

8. During the period April 1, 2004 through June 30, 2004, FBCO failed to accept or decline in the Nasdaq Market Center (formerly known as ACT) 158 transactions in eligible securities within twenty minutes after execution, approximately 21 percent of all transactions that FBCO had an obligation to accept or decline in Nasdaq Market Center as the order entry firm ("OEID").

9. The conduct described in paragraph eight constitutes separate and distinct violations of NASD Marketplace Rule 6130(b).

20050002611, 2004 TMMS Examination

10. On trade dates June 15 and 16, 2004, on 45 occasions, FBCO provided *written notification to its customers that disclosed an incorrect capacity in the transaction.*
11. The conduct described in paragraph 10 constitutes separate and distinct violations of SEC Rule 10b-10.
12. The firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to the applicable securities laws and regulations, and the Rules of NASD, concerning best execution, trade reporting, short sales, and OATS. Specifically, the firm's supervisory system included written supervisory procedures concerning:
a) best execution that failed to identify the person(s) responsible for supervision of best execution for agency trades, failed to include a statement of the supervisory step(s) to be taken to review for best execution of agency trades, and failed to include any procedures to review for compliance with the "three-quote rule," specifically, NASD Conduct Rules 2320(g) and 3110(b); **b) trade reporting** that erroneously identified certain personnel as responsible for supervision when they were not;
c) short sales that failed to include any procedures to review for compliance with the rules relating to affirmative determinations, specifically NASD Conduct Rules 3370(b) and 3110(b); and **d) OATS** that failed to include a statement as to how the completion of the step(s) included in the written supervisory procedures should be documented. In addition, the firm failed to provide evidence of supervision with respect to trade reporting, affirmative determinations and OATS.
13. The conduct described in paragraph 12 constitutes a violation of NASD Conduct Rules 2110 and 3010.

20050006528, OATS Review

14. During the period October 1, 2004 through December 31, 2004, FBCO transmitted to OATS 81,212 reports that contained inaccurate, incomplete, or improperly formatted data. Specifically, the reports failed to match to the related order in the Nasdaq Market Center. These inaccurate and/or incomplete reports represented four percent of all reports transmitted by the firm during the review period.

15. The conduct described in paragraph 14 constitutes separate and distinct violations of NASD Marketplace Rule 6955(a).

20050027718, 2005 TMMS Examination

16. On trade date October 3, 2005, FBCO failed to correctly report to the Nasdaq Market Center 43 riskless principal transactions in Nasdaq securities.
17. On trade date October 3, 2005, FBCO failed to report to the Nasdaq Market Center two last sale reports of transactions in Nasdaq securities.
18. On trade dates October 3 and October 4, 2005, FBCO sent 75 duplicate media reports of agency trades to the Nasdaq Market Center in Nasdaq securities.
19. The conduct described in paragraphs 16 through 18 constitutes separate and distinct violations of NASD Marketplace Rule 4632.
20. On trade dates October 3 and October 4, 2005, FBCO failed to report to the Nasdaq Market Center the correct symbol indicating whether FBCO executed 42 transactions in eligible securities in a principal or agency capacity.
21. The conduct described in paragraph 20 constitutes separate and distinct violations of NASD Marketplace Rule 6130.
22. On trade date October 3, 2005, FBCO failed to correctly report to the Nasdaq Market Center one riskless principal transaction in eligible securities.
23. The conduct described in paragraph 22 constitutes a violation of NASD Marketplace Rule 6420.
24. On trade date October 3, 2005, FBCO transmitted to OATS six reports that contained inaccurate, incomplete, or improperly formatted data. Specifically, the reports omitted a special handling code of "NH" for two not-held orders; failed to include the correct capacity in two OATS reports and thus the reports did not match to a Nasdaq Market Center report; failed to submit a Combined New Order/Route report; and failed to match a Combined New Order/Execution report to a Nasdaq Market Center report.
25. The conduct described in paragraph 24 constitutes separate and distinct violations of NASD Marketplace Rule 6955.

26. On trade dates October 3 and October 4, 2005, on 11 occasions, FBCO provided written notification to its customer that disclosed an incorrect capacity in the transaction; and/or failed to document the correct average price disclosure; and/or failed to document the market maker disclosure.
27. The conduct described in paragraph 26 constitutes separate and distinct violations of SEC Rule 10b-10.
28. The firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to the applicable securities laws and regulations, and the Rules of NASD, concerning best execution, trade reporting, short sales, soft dollar accounts and trading, and books and records. Specifically, the firm's supervisory system included written supervisory procedures concerning: a) **best execution** that failed to include any procedures to review for compliance with NASD Conduct Rules 2320(g) and 3110(b) (the "three-quote rule"); b) **trade reporting** that failed to include adequate procedures as to how often supervisory personnel review riskless principal transaction reporting, and failed to include any procedures for reviewing the accuracy of trades reported on its behalf under a pre-arranged reporting agreement; c) **short sales** that failed to (1) identify the person(s) responsible for supervision with respect to the applicable rules; and (2) include a statement as to how the completion of the step(s) included in the written supervisory procedures should be documented; d) **soft dollar accounts and trading** that failed to include a statement as to how the completion of the step(s) included in the written supervisory procedures should be documented; and e) **books and records** that failed to include any procedures to address how the firm reviews the accuracy of its books and records. In addition, the firm failed to provide evidence of supervision with respect to the accuracy of trades reported on its behalf under a pre-arranged reporting agreement.
29. The conduct described in paragraph 28 constitutes a violation of NASD Conduct Rules 2110 and 3010.

B. FBCO also consents to the imposition, at a maximum, of the following sanctions:

A **censure and a fine of \$110,000** (consisting of \$8,000 for Limit Order Display violations found in 20050001372; \$10,000 for short sale violations and \$5,000 for supervision violations found in 20041000007 and 20041000131; \$7,500 for 20 Minute – OE Late violations found in 20050000997; \$2,500 for SEC Rule 10b-10 violations and \$5,000 for supervision violations found in the 2004 TMMS Examination; \$45,000 for OATS violations found in 20050006528; and \$5,000 for trade reporting violations, \$10,000 for OATS violations, \$5,000 for SEC Rule 10b-10 violations, \$2,000 for books and records violations, and \$5,000 for supervision violations found in the 2005 TMMS Examination).

III.

OTHER MATTERS

- A. FBCO understands that it may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. FBCO 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 NASD, nor does it reflect the views of NASD or its staff.
- B. FBCO agrees to pay any monetary sanctions imposed on it upon notice that this AWC has been accepted and that such payments are due and payable and has attached an Election of Payment form showing the method by which it proposes to pay any fine imposed.
- C. FBCO specifically and voluntarily waives any right to claim that FBCO is unable to pay, now or at any time hereafter, any monetary sanction imposed in this matter.

Credit Suisse Securities (USA) LLC

By: [Signature]

Title: Vice-President

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