

**FINANCIAL INDUSTRY REGULATORY AUTHORITY  
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT  
NO. 2020066233401**

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

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

Pursuant to FINRA Rule 9216, Respondent 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**

Credit Suisse has been a FINRA member since October 1936. The firm is headquartered in New York City, has approximately 2,200 registered individuals and 29 branch offices, and is a full-service broker-dealer that conducts a securities business, including an options business.

In March 2018, FINRA and the BOX Options Exchange LLC censured and fined the firm \$200,000 for violations occurring between 2010 and 2016, including (i) effecting opening transactions for 16 customer accounts acting in-concert that exceeded position limits for 107 days; (ii) failing to report 148 positions to the Large Options Position Report (LOPR); (iii) reporting positions to the LOPR with inaccurate tax fields in millions of instances; and (iv) failing to establish and maintain a supervisory system reasonably designed to achieve compliance with LOPR reporting and position limit requirements.<sup>1</sup>

**OVERVIEW**

Between January 2010 and June 2021 Credit Suisse misreported the covered quantity of over 10,000 Over-The-Counter (OTC) short positions to the LOPR in violation of FINRA Rules 2360(b)(5) and 2010.

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<sup>1</sup> For more information about the firm, including prior regulatory events, visit BrokerCheck® at [www.finra.org/brokercheck](http://www.finra.org/brokercheck).

During the same period, the firm failed to reasonably supervise the accuracy of the covered quantity of its short positions reported to the LOPR in violation of NASD Rule 3010 and FINRA Rules 3110 and 2010, which allowed misreporting to continue without detection for over eleven years.<sup>2</sup>

### **FACTS AND VIOLATIVE CONDUCT**

This matter originated from an OTC position limits review by FINRA's Options Regulation group.

#### **Credit Suisse misreported short-covered quantities to the LOPR.**

FINRA rules require member firms to report large options positions to the LOPR.<sup>3</sup> Specifically, FINRA Rule 2360(b)(5) requires that member firms file a report for each customer or firm account, that, acting alone or in-concert, has established an aggregate position of 200 or more option contracts on the same side of the market covering the same underlying security or index. The report must identify the account holder and the total number of option contracts for each options class comprising the reportable position, including, in the case of short positions, the covered quantity of those positions as defined by FINRA Rule 2360(a)(10).

A violation of FINRA Rule 2360(b)(5) also is a violation of FINRA Rule 2010, which requires member firms, in the conduct of their business, to observe high standards of commercial honor and just and equitable principles of trade.

LOPR data is used by regulators to identify holders of large options positions who may be attempting to manipulate the market in the underlying equity, leverage an option position to affect the price, or move the underlying equity to change the value of a large option position. The accuracy of LOPR data is essential for this analysis. It is particularly important with respect to the OTC options market because there is no independent source of data for regulators to review OTC options.

Between January 2010 and June 2021, due to coding errors, the firm misreported to the LOPR the covered quantity for 10,864 OTC short positions in 1,672,222 instances.<sup>4</sup>

Therefore, Credit Suisse violated FINRA Rules 2360(b)(5) and 2010.

#### **Credit Suisse failed to reasonably supervise LOPR reporting.**

FINRA Rule 3110(a) requires a 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 and regulations, and with applicable FINRA rules. FINRA Rule 3110(b) requires a member firm to establish, maintain, and enforce

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<sup>2</sup> FINRA Rule 3110 superseded NASD Rule 3010 on December 1, 2014.

<sup>3</sup> The Options Clearing Corporation hosts the LOPR system and collects and disseminates all LOPR data for the U.S. options exchanges and FINRA.

<sup>4</sup> An "instance" occurs where a firm fails to report, or inaccurately reports, a position for one day. The number of instances is determined by multiplying a given reportable position by the number of trade dates that the position was not reported or was reported inaccurately.

written procedures to supervise the types of business in which it engages and the activities of its associated persons that are reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable FINRA Rules. Prior to the adoption of FINRA Rule 3110, NASD Rule 3010(a) and (b) imposed similar obligations. A violation of NASD Rule 3010 and FINRA Rule 3110 also is a violation of FINRA Rule 2010.

From January 2010 to June 2021, the firm failed to establish and maintain a supervisory system and written supervisory procedures (WSPs) reasonably designed to achieve compliance with rules governing LOPR reporting. The firm's supervisory system and WSPs concerning LOPR provided for supervisory reviews of LOPR reporting that included reviews of rejected records, acting-in-concert submissions, and periodic reviews for completeness. However, the firm's supervisory system and WSPs failed to provide for any supervisory review to determine whether the short-covered quantity information reported to the LOPR was complete and accurate. As a result, Credit Suisse failed to detect that it was misreporting the covered quantity of short positions over an 11-year period.

Therefore, Credit Suisse violated NASD Rule 3010 and FINRA Rules 3110 and 2010.<sup>5</sup>

B. Respondent also consents to the imposition of the following sanctions:<sup>6</sup>

- a censure and
- a \$375,000 fine

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.

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<sup>5</sup> Credit Suisse completed the remediation of the coding errors in June 2021 and amended its supervisory system and WSPs to include a review of the short-covered quantity in July 2021.

<sup>6</sup> Related disciplinary action by the Miami International Securities Exchange, LLC Authority for similar violations is being taken concurrently in conjunction with this matter.

### **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.**

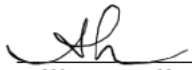
#### **OTHER MATTERS**

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:



Reviewed by:



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Allison Lullo, Esq.  
Counsel for Respondent  
Kirkland & Ellis LLP  
601 Lexington Avenue, New York, NY 10022  
(212) 446-4695

Accepted by FINRA:

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

November 10, 2022

\_\_\_\_\_  
Date



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Samuel L. Barkin  
Director  
FINRA Department of Enforcement  
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Jersey City, NJ 07302