

NEW YORK STATE DEPARTMENT  
OF FINANCIAL SERVICES

In the Matter of

CREDIT SUISSE AG

**CONSENT ORDER PURSUANT TO BANKING LAW § 44-a**

The New York State Department of Financial Services (“the Department”) and Credit Suisse stipulate that:

**WHEREAS** Credit Suisse AG<sup>1</sup> (“Credit Suisse” or “the Bank”) is a major international banking institution, which has approximately 45,000 employees and which reported net income in fiscal year 2013 of approximately \$3.380 billion, and which is licensed to operate a foreign bank branch in New York;

**WHEREAS** from 1999 until its closure in 2009, Credit Suisse operated a representative office in New York City, which representative office was licensed by the New York State Banking Department, predecessor to the Department;

**WHEREAS** for several decades, Credit Suisse operated an illegal cross-border banking business that knowingly and willfully aided and assisted thousands of U.S. clients in opening and maintaining undeclared accounts and concealing their offshore assets and income from the IRS and New York authorities;

**WHEREAS** Credit Suisse is pleading guilty to a one-count information filed in the U.S. District Court for the Eastern District of Virginia on May 19, 2014, which accuses the bank of

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<sup>1</sup> Unless otherwise specifically noted herein, Credit Suisse AG, its parent, and Switzerland-based subsidiaries and affiliates, including Clarden Leu, collectively will be called “Credit Suisse.”

conspiracy to assist the filing of false tax returns, and admitted certain facts and conduct, including:

- That it conspired to assist in the preparation and filing of false tax returns and conducted an illegal cross-border banking business that knowingly assisted thousands of U.S. customers in opening and maintaining Swiss accounts that were undeclared and hidden from U.S. authorities;
- That it utilized the Bank's New York Representative Office to further the scheme by hosting meetings, providing account statements, and otherwise assisting U.S. clients filing false and fraudulent U.S. tax reporting documents, including tax returns;
- That it advised U.S. customers not to maintain account records and that employees in the Bank's New York Representative Office destroyed account statements that had been shown to U.S. customers in conformance with Swiss data secrecy restrictions and to further conceal the U.S. clients' undeclared Swiss accounts;
- That it maintained policies, training, and audits that were ineffective in preventing employees' illegal conduct or remedying misconduct in a timely and effective fashion;

**WHEREAS** Credit Suisse consented to a Cease & Desist Order and agreed to a \$196.5 million settlement with the Securities and Exchange Commission on February 21, 2014, in which the Bank admitted to facts constituting willful violations of federal securities laws, including that Credit Suisse bankers traveled to New York to solicit clients and engage in unregistered investment advising and securities business for some of the several thousand U.S. customers who had Swiss accounts with Credit Suisse;

**WHEREAS** Credit Suisse provided false and misleading information to the New York State Banking Department regarding its New York Representative Office's activities, including

averring, in materials submitted in conjunction with an application to operate the New York Representative Office, that:

- The Bank's policy prohibited providing any assistance to tax evasion; and
- Employees of the New York Representative Office would refuse any new client who indicated a desire to evade taxes;

**WHEREAS** Credit Suisse's New York Representative Office was a hub for Credit Suisse's U.S.-focused cross-border private banking business, and employees of the New York Representative Office furthered the scheme by, among other things:

- Soliciting U.S. taxpayers to open secret Swiss accounts with Credit Suisse;
- Facilitating meetings between U.S. customers and Credit Suisse Swiss bankers relating to the customers' secret Swiss accounts and providing other support to Credit Suisse Swiss bankers during their visits to the U.S.;
- Meeting with and conducting banking activity for U.S. customers who maintained secret Swiss bank accounts;
- Assisting U.S. customers in setting up offshore corporate entities to nominally hold the secret Credit Suisse accounts and hide their true tax status from U.S. authorities;

**WHEREAS** Swiss-based employees of the Bank regularly traveled to New York and conducted activities that both furthered the illegal tax evasion scheme and constituted improper banking and investment advising activities, including:

- Meeting existing customers to discuss secret accounts they held with Credit Suisse;
- Meeting prospective customers to discuss opening secret accounts;

- Advising customers about account maintenance and deposit and withdrawal practices to help avoid detection by U.S. authorities;
- Establishing and maintaining offshore corporate entities to nominally hold the secret Credit Suisse accounts;
- Providing investment advice and engaging in unlicensed banking and securities transactions;

**WHEREAS** Credit Suisse management encouraged and promoted the ongoing scheme, including by warning Swiss bankers who traveled to New York that they should take care to avoid detection of their U.S. activities and by forming close business relationships with third parties that helped Credit Suisse customers avoid U.S. taxes;

**WHEREAS** Credit Suisse maintained Swiss accounts for thousands of New York taxpayers, many of whom, with Credit Suisse's assistance, hid the accounts and their proceeds from federal and state tax authorities;

**WHEREAS** eight individuals – six Credit Suisse bankers, the head of the New York Representative Office, and one former employee of a Credit Suisse subsidiary who worked closely with Credit Suisse bankers – were indicted in the United States District Court for the Eastern District of Virginia in 2011 and accused of conspiracy to commit tax evasion;

**WHEREAS** both the head of the New York Representative Office, Roger Schaerer, and the Swiss-based managing director with direct supervisory oversight of the New York Representative Office, Markus Walder, were among the eight individuals indicted;

**WHEREAS** to date, two of the eight individual defendants have pled guilty, admitting that they conducted various acts in furtherance of the tax evasion scheme in New York, including working in conjunction with the New York Representative Office;

**WHEREAS** three of the accused bankers – Markus Walder, Susanne Ruegg Meier, and Marco Parenti Adami – remain employed by Credit Suisse on administrative leave;

**NOW THEREFORE**, pursuant to the Superintendent’s authority under Section 44-a of the Banking Law, the Department and Credit Suisse are willing to resolve the matters cited herein without further proceedings as follows:

**SETTLEMENT PROVISIONS**

**Monetary Penalty**

1. Credit Suisse shall pay a civil monetary penalty to the Department pursuant to Banking Law Section 44-a in the amount of \$715,000,000. Credit Suisse shall pay the entire amount within ten days of executing this Consent Order. Credit Suisse agrees that it will not claim, assert, or apply for a tax deduction or tax credit with regard to any U.S. federal, state, or local tax, directly or indirectly, for any portion of the civil monetary penalty paid pursuant to this Consent Order.

**Monitor**

2. The Bank will engage an independent monitor, selected by the Department in the exercise of its sole discretion after appropriate consultation with Credit Suisse, to conduct, consistent with applicable law, a comprehensive review of the Bank’s compliance programs, policies, and procedures in place at the time of the conduct discussed in this Consent Order through the present.

3. The monitor will review and report on:

- The elements of the Bank’s corporate governance that contributed to or facilitated the wrongdoing discussed in this Consent Order and that permitted it to go on;

- The involvement of individual employees, including but not limited to present and former officers, directors, and other employees, in the conduct discussed in this Consent Order;
- The timeliness and effectiveness of the Bank's efforts to correct the misconduct identified in this Consent Order;
- Enhancements to the Bank's reporting structure and compliance programs that will benefit the Bank's efforts to comply with U.S. and New York law in the future, and ensure safety and soundness.

4. Credit Suisse and its management will fully cooperate with the monitor and support its investigation by, among other things, providing the monitor with access to all relevant personnel, files, reports, or evidence, whether located in New York, Switzerland, or elsewhere.

5. The term of the monitor's engagement will be determined by the Department, but will not exceed two years. Any dispute as to the scope of the monitor's authority or mandate will be resolved by the Department in the exercise of its sole discretion after appropriate consultation with Credit Suisse and the monitor.

6. Within six months of the date of formal engagement, the monitor shall submit to the Department and Credit Suisse's Board of Directors a written interim report stating the work done and conclusions reached to date. The monitor shall submit a written progress report to the Department and to Credit Suisse at intervals to be determined by the Department. The monitor shall submit its final report to the Department and to Credit Suisse's Board of Directors, including proposals for improvements to Credit Suisse's compliance programs, at the conclusion of the engagement.

7. Within sixty days of receiving the monitor's final report, Credit Suisse will submit to the Department a written plan to improve and enhance its compliance programs with respect to U.S.

and New York law, which will include a plan for implementing any recommendations made by the monitor or an explanation as to why the monitor's recommendations are not being incorporated.

### **Maintenance of Records**

8. Credit Suisse will maintain in the U.S. all records of all financial transactions conducted by Credit Suisse in the U.S., and will make such records available, upon request, to the Department and to the monitor provided for in this Consent Order.

### **Employee Discipline**

9. Credit Suisse must terminate the employment of Markus Walder, Susanne Ruegg Meier, and Marco Parenti Adami. Credit Suisse will notify them of the termination by May 30, 2014, and terminate their employment by August 31, 2014. Credit Suisse shall provide the Department with regular updates about the progress of the termination process.

10. Credit Suisse has agreed that it will not directly or indirectly hire, retain, or enter into any contract, agreement, or business relationship with the following nine individuals, who have been found by the Department to have participated in the conduct discussed in this Consent Order: Markus Walder, Marco Parenti Adami, Susanne Ruegg Meier, Roger Schaerer, Emanuel Agustoni, Michele Bergantino, Andreas Bachmann, Josef Dörig, and Beda Singenberger.

### **Breach of Consent Order**

11. In the event that the Department believes Credit Suisse to be in material breach of the Consent Order, the Department will provide written notice to Credit Suisse and Credit Suisse must, within ten business days of receiving such notice, or on a later date if so determined in the Department's sole discretion, appear before the Department to demonstrate that no material breach has occurred or that the breach has been cured.

12. The parties understand and agree that Credit Suisse's failure to make the required showing within the designated time period shall be presumptive evidence of Credit Suisse's breach. Upon a finding that Credit Suisse has breached this Consent Order, the Department has all the remedies available to it under New York Banking and Financial Services Law and may use any evidence available to the Department in any ensuing hearings, notices, or orders.

**Wavier of Rights**

13. The parties understand and agree that no provision of this Consent Order is subject to review in any court or tribunal outside the Department.

**Parties Bound by the Consent Order**

14. This Consent Order is binding on the Department and Credit Suisse, as well as Credit Suisse's successors and assigns that are under the Department's supervisory authority. But this Consent Order does not bind any federal or other state agency or any law enforcement authority.

15. No further action will be taken by the Department against Credit Suisse for the conduct set forth in the Consent Order, provided that Credit Suisse complies with the terms of the Consent Order.

16. Notwithstanding any other provision in this Consent Order, however, the Department may undertake additional action against Credit Suisse for transactions or conduct that Credit Suisse did not disclose to the Department in connection with the Department's investigation into this matter.

**Notices**

17. All notices or communications regarding this Consent Order shall be sent to:

For the Department:

Maria Filipakis  
Executive Deputy Superintendent, Capital Markets Division  
One State Street  
New York, NY 10004-1511

For Credit Suisse:

Pierre Schreiber  
Corporate Secretary  
Credit Suisse AG  
RX  
CH-8070 Zurich  
Zurich, Switzerland

**Miscellaneous**

18. Each provision of this Consent Order shall remain effective and enforceable until stayed, modified, suspended, or terminated by the Department.

19. No promise, assurance, representation, or understanding other than those contained in this Consent Order has been made to induce any party to agree to the provisions of the Consent Order.

IN WITNESS WHEREOF, the parties have caused this Consent Order to be signed this 18th day of May, 2014.

**CREDIT SUISSE AG**

By:   
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**ALAN REIFENBERG**  
Managing Director

**NEW YORK STATE DEPARTMENT OF  
FINANCIAL SERVICES**

By:  5/19/14  
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**BENJAMIN M. LAWSKY**  
Superintendent of Financial Services