

MEMO# 35544

December 14, 2023

SEC Sanctions Credit Suisse for Providing Prohibited Mutual Fund Services

[35544]

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TO: Chief Compliance Officer Committee

SEC Rules Committee SUBJECTS: Litigation & Enforcement RE: SEC Sanctions Credit Suisse for Providing Prohibited Mutual Fund Services

On December 13, 2023, the SEC settled an enforcement action against Credit Suisse Securities ("CSS") and two affiliated entities based on findings that they violated Section 9(a) of the Investment Company Act (ICA) by acting as a principal underwriter or investment adviser to a registered investment company after being sanctioned by a state court for violating the state's securities law.[\[1\]](#) Based on this finding, the Respondents were fined in excess of \$10 million, which amount includes disgorgement, prejudgment interest, and civil penalties. The Respondents were also censured and ordered to cease and desist. The Respondents' conduct in violation of the ICA is briefly summarized below.

The genesis of this action is a December 2013 Complaint filed by the Acting Attorney General of New Jersey on behalf of the New Jersey Bureau of Securities against CSS and its two affiliates alleging they violated New Jersey's Uniform Securities Law by engaging in fraudulent conduct in connection with CSS's role as the underwriter of certain residential mortgage-backed securities trust certificates. In October 2022, the Superior Court of New Jersey issued a consent order prohibiting the Respondents from violating New Jersey's Law. While the Respondents voluntarily notified the Commission of this order, they neither sought nor obtained exemptive relief under the ICA that would enable them to continue to serve as investment advisers or principal underwriters to registered investment companies following the order. Such relief was necessary to avoid a violation of Section 9(a) of the ICA.

It was not until June 7, 2023 that the Respondents applied for a temporary order for exemptive relief from Section 9(a), which the Commission granted. On June 12, 2023, the Respondents were acquired by another firm as a result of that firm's merger with Credit Suisse Group. In July 2023, the Commission issued a permanent order of exemption to the acquiring firm. Between October 2022 when the Superior Court of New Jersey issued its order against CSS and June 7, 2023, when the SEC provided it temporary exemptive relief, the Respondents were prohibited from serving as a principal underwriter or investment

adviser to a registered investment company. When they continued to do so, it was in violation of Section 9(a) of the ICA. Hence the SEC's action against the Respondents.

Tamara K. Salmon
Associate General Counsel

Notes

[1] See In the Matter of Credit Suisse Securities (USA) LLC; Credit Suisse Asset Management LLC; and Credit Suisse Asset Management Ltd., Administrative Proceeding File No. 23-21811 (Dec. 13, 2023), which is available at: <https://www.sec.gov/files/litigation/admin/2023/34-99158.pdf>. The SEC's Press Release about this case is available at: <https://www.sec.gov/news/press-release/2023-249>.

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