
FINAL NOTICE

To: Credit Suisse

Of: 1 Cabot Square, London E14 4QJ

Dated 8 April 2010

TAKE NOTICE: The Financial Services Authority of 25 The North Colonnade, Canary Wharf, London E14 5HS (“the FSA”) gives you final notice about a requirement to pay a financial penalty.

1. THE PENALTY

- 1.1. The FSA gave Credit Suisse Securities (Europe) Limited, Credit Suisse (UK) Limited, Credit Suisse International, and Credit Suisse AG (collectively “Credit Suisse” or the “Firm”) a Decision Notice on 29 March 2010 which notified the Firm that pursuant to section 206 of the Financial Services and Markets Act 2000 (“the Act”), the FSA has decided to impose a financial penalty of £1.75 million on the Firm in respect of breaches of rules set out in chapter SUP 17 of the FSA Handbook which occurred between 5 November 2007 and 20 November 2008 (“the Relevant Period”).
- 1.2. The Firm has confirmed that it will not be referring the matter to the Financial Services and Markets Tribunal.
- 1.3. Accordingly, for the reasons set out below, the FSA imposes a financial penalty on the Firm in the amount of £1.75 million.

- 1.4. This penalty is discounted by 30% pursuant to Stage 1 of the early settlement discount scheme. Were it not for this discount, the FSA would have imposed a financial penalty of £2.5 million on Credit Suisse.

2. REASONS FOR THE ACTION

Summary

- 2.1. Accurate and complete transaction reporting is essential to enable the FSA to meet its statutory objectives of maintaining market confidence and reducing financial crime. The primary function for which the FSA uses transaction reports is to detect and investigate suspected market abuse, insider trading and market manipulation.
- 2.2. A transaction report is a data set submitted to the FSA and relates to an individual financial market transaction which includes (but is not limited to) details of the product traded, the firm that undertook the trade, the trade counterparty and the trade characteristics such as buy/sell identifier, price and quantity.
- 2.3. In the Relevant Period Credit Suisse breached Chapter 17 of the Supervision Manual, which is part of the FSA Handbook (SUP 17) in that it failed to submit accurate transaction reports in respect of approximately 40 million transactions.
- 2.4. The FSA considers these failings to be serious, particularly because:
 - (1) Credit Suisse's failure to submit accurate transaction reports could have a serious impact on the FSA's ability to detect and investigate suspected market abuse and consequently could impact the FSA's ability to maintain market confidence and reduce financial crime. In addition, its failure has impaired the FSA's ability to provide accurate transaction reporting data to overseas regulators;
 - (2) Credit Suisse failed to report all 30 million LSE transactions it executed during the Relevant Period, and inaccurately reported a further 10 million transactions across all of its asset classes; and
 - (3) Credit Suisse's failures occurred during a period of heightened awareness around transaction reporting issues as a result of the implementation of the Markets in Financial Instruments Directive ("MiFID") and public statements by the FSA.
- 2.5. After the FSA brought errors in Credit Suisse's transaction reporting to its attention, the firm took a number of steps which mitigate the seriousness of the failings. These include:

- (1) conducting a “Front to Back” Review of the Credit Suisse transaction reporting process, and engaging external consultants to provide quality assurance in relation to that review;
- (2) developing and implementing a quality control process to ensure the accuracy and completeness of transaction reporting to the FSA going forward;
- (3) implementing an enhanced Transaction Reporting Awareness training programme;
- (4) improving communications with the external reporting mechanism for LSE transactions (the “External ARM”); and
- (5) cooperating fully with the FSA in the course of its investigation.

Relevant regulatory provisions

2.6. The FSA is authorised pursuant to section 206 of the Act, if it considers that an authorised person has contravened a requirement imposed on him by or under the Act, to impose on him a penalty in respect of the contravention, of such amount as it considers appropriate.

2.7. Maintaining market confidence and the reduction of financial crime are statutory objectives for the FSA under section 2(2) of the Act.

2.8. The transactions which are required to be reported to the FSA are defined in SUP 17.1.4R which states:

“A firm which executes a transaction:

- (1) *in any financial instrument admitted to trading on a regulated market or a prescribed market (whether or not the transaction was carried out on such a market); or*
- (2) *in any OTC derivative the value of which is derived from, or which is otherwise dependent upon, an equity or debt-related financial instrument which is admitted to trading on a regulated market or on a prescribed market;*

must report the details of the transaction to the FSA.”

2.9. SUP 17.2.3R provides:

“A firm is relieved of its obligation to make a transaction report if the transaction is instead reported directly to the FSA by an approved reporting mechanism...”

2.10. SUP 17.2.4 G provides:

“The FSA will expect a firm which seeks to rely upon the waiver in SUP 17.2.3R to take reasonable steps to verify that transaction reports will be made in accordance with the standards laid down in this chapter and in particular should ascertain and remain satisfied that:

...

(3) the arrangements provide for confirmation in each case that a transaction report has been made on its behalf”

2.11. The time period for making reports is stipulated in SUP 17.2.7R:

“A firm must report the required details of the transaction to the FSA as quickly as possible and by not later than the close of the working day following the day upon which that transaction took place.”

2.12. SUP 17.4.1EU provides:

“Reports of transactions ...shall contain the information specified in SUP 17 Annex 1 EU which is relevant to the type of financial instrument in question and which the FSA declares is not already in its possession or is not available to it by other means.”

2.13. SUP 17.4.2R provides:

“The reports referred to in SUP 17.4.1 ... shall, in particular include details of the names and the numbers of the instruments bought or sold, the quantity, the dates and times of execution and the transaction prices and means of identifying the firms concerned.”

2.14. Annex 1 to SUP 17 provides lists of fields and mandatory information to be provided as the minimum content of a transaction report.

2.15. The FSA’s approach to exercising its enforcement powers is set out in the Decision Procedure & Penalties Manual (“DEPP”) and Enforcement Guide (“EG”).

Facts and matters relied upon

Background

- 2.16. SUP 17 requires transaction reports containing mandatory details to be submitted to the FSA by the end of the next business day following the day on which the firm entered into the transaction. At the end of each working day, transaction reports received by firms are loaded onto the FSA's transaction monitoring system.
- 2.17. Firms are able to report transactions to the FSA using one or more Approved Reporting Mechanisms ("ARMs"), which are specialised systems approved by the FSA for the purpose of transaction reporting.
- 2.18. The implementation of MiFID across all European Economic Area ("EEA") Member states on 1 November 2007 (effective on 5 November for transaction reporting) introduced changes to the list of products in which transactions had to be reported and standardisation of the list of fields which were required to be included in the reports. SUP 17 was amended from 1 November 2007 to reflect these changes. Whilst the changes required to be implemented by firms were significant in respect of their MiFID transaction reporting obligations the mandatory content of the transaction reports for many products remained largely unaffected by the MiFID changes.
- 2.19. The FSA has provided regular and detailed information to firms in its "Market Watch" publication on transaction reporting issues prior to and during the Relevant Period. In order to assist firms with transaction reporting generally and with respect to changes introduced by MiFID, the FSA issued a Transaction Reporting User Pack (TRUP) in July 2007.
- 2.20. Reminders were given by the FSA in Market Watch in March 2007 and June 2008 (Issues 19 and 28 respectively) and TRUP, that firms should regularly review the integrity of transaction report data.
- 2.21. Issue 28 of the Market Watch in June 2008 stated:

"Firms must report transactions to us accurately to help us monitor for market abuse and maintain market confidence. Accuracy in transaction reports also reduces the number of requests for clarification that we need to make to firms.

Therefore, we encourage all firms to review the integrity of their transaction report data regularly. Our Transaction Monitoring Unit is happy to provide firms a sample of reports we have received so that firms can check those transaction reports against their own records...

We will be undertaking regular reviews of the quality and completeness of firms' submissions. We expect firms now to be fully compliant with the transaction reporting requirements set out in SUP 17. Where we identify problems with transaction reporting we will consider the use of our enforcement tools. In doing so, we will take into account the appropriateness of the firm's systems and controls, including its monitoring programme around transaction reporting."

MiFID implementation

- 2.22. Prior to the implementation of MiFID, all of Credit Suisse's transaction reporting of LSE transactions was conducted through the External ARM. Credit Suisse decided that after MiFID implementation:
- (1) it would continue to transaction report all of its LSE trading, amounting to 25% of its reportable trading activity in the Relevant Period through the External ARM; and
 - (2) the remainder of its transaction reporting would be through its own in-house ARM named DARE which it set up for this purpose. As a result Credit Suisse's MiFID implementation project in respect of transaction reporting focussed upon the design, development and testing of systems to report transactions via DARE.
- 2.23. Between August and October 2007 the External ARM issued eight Operational Bulletins to a Credit Suisse email account designated to receive such Operational Bulletins. Those Bulletins stated that if firms wished the External ARM to continue transaction reporting on their behalf after MiFID, it was necessary to submit a mandatory static data form prior to the implementation of MiFID.
- 2.24. Credit Suisse did not submit the static data form to the External ARM, and the External ARM stopped transaction reporting on behalf of Credit Suisse on 12 November 2007. However, after this date Credit Suisse believed that the External ARM was continuing to transaction report its LSE trading, as it had done prior to MiFID. Credit Suisse had several meetings with the External ARM during the Relevant Period in which they discussed the inclusive fees paid by Credit Suisse for clearing, settlement and transaction reporting. Credit Suisse assumed from these discussions that the reporting was continuing.

Credit Suisse internal reviews pre- and post-MiFID implementation

Non-LSE Transactions

- 2.25. Between August and early October 2007 Credit Suisse conducted User Acceptance Testing ("UAT") in respect of its arrangements for reporting non-LSE transactions, which it intended to submit to the FSA through DARE. As part of the UAT 2,930 test cases were executed, focussing on many of the transaction

reporting requirements. As a result of the testing a number of shortcomings were identified and remedied.

- 2.26. Between February and May 2008 Credit Suisse conducted a review of the key changes to transaction reporting through DARE in the three months following MiFID implementation. No equivalent review was carried out in relation to transaction reporting through the External ARM.

Inadequate controls in relation to transaction reporting

LSE Transactions

- 2.27. During the Relevant Period Credit Suisse mistakenly assumed that 25% of its reportable transactions were being reported on its behalf by the External ARM but failed to develop and implement controls to confirm that those reports were being submitted, whether in accordance with the standards of SUP 17 or at all. This failure occurred despite repeated warnings by the FSA in Market Watch and TRUP that firms should regularly review the integrity of their transaction reporting data. Firms were also encouraged through Market Watch to request transaction reporting data from the FSA in order to verify the integrity of transaction reporting data. Credit Suisse did not request transaction reporting data from the FSA submitted through the External ARM. If it had done so, or had otherwise monitored the accuracy of its transaction reports, it would have become apparent that none were being submitted in relation to LSE transactions.

FSA identification of transaction reporting problems

Non-LSE Transactions

- 2.28. In early August 2008 the FSA observed, in the course of a review of transaction reports, that Credit Suisse was reporting the unit price of some transactions in minor currency (pence) instead of major currency (pounds sterling). After analysing the issue, Credit Suisse confirmed that this affected a total of approximately 300,000 equity transactions denominated in sterling which were attributed to a single system and business area.
- 2.29. Credit Suisse's own analysis of the "unit price issue" also identified that a number of exchanges and Multilateral Trading Facilities ("MTFs") were being incorrectly identified as "Off-Exchange" rather than by the identifying Market Identifier Code allocated to each exchange and MTF; this error affected 1.3 million transactions.
- 2.30. In mid September 2008 the FSA identified that Credit Suisse was reporting certain transactions using Greenwich Mean Time ("GMT") rather than British Summer Time ("BST") during British Summer Time. After preliminary analysis of the issue, Credit Suisse stated that this affected transactions executed on a

single exchange, totalling 5 million transaction reports, and identified that a further 140,000 transactions were affected by a similar issue where the time was incorrectly adjusted. Following Credit Suisse's in-depth investigation that was part of the "Front to Back" transaction reporting review (detailed below in point 2.33) it identified that just over 6 million transaction reports were affected by this issue.

- 2.31. In addition, the FSA identified in December 2008 that Credit Suisse had incorrectly populated the "Counterparty one" field in certain transaction reports with an internal code instead of the Counterparty Swift BIC. Credit Suisse subsequently confirmed as part of its "Front to Back" transaction reporting review that this issue affected 2.2 million transactions, 0.5 million transactions of which had already been affected by incorrect categorisation as "Off-Exchange", as stated in paragraph 2.29 above.

LSE Transactions

- 2.32. The FSA identified in November 2008 that Credit Suisse had not submitted any transactions executed on the LSE for an extended period of time. Credit Suisse confirmed that the External ARM had stopped reporting such transactions on its behalf on 12 November 2007, affecting 30 million transactions, and re-enabled reporting with the External ARM from 20 November 2008.

Credit Suisse "Front to Back" review

- 2.33. Credit Suisse conducted a "Front to Back" transaction reporting review in November 2008 into the transaction reporting issues communicated to it by the FSA. This was submitted to the FSA on 16 September 2009. The review was undertaken by Credit Suisse's Operations Department. The review documented the details pertaining to each issue, including volumes of reportable transactions affected, and the action implemented to resolve each issue.
- 2.34. The review identified some additional failings to report transactions correctly through DARE, which amounted to approximately 1.5 million reportable transactions during the Relevant Period. The additional findings included both an increase in the number of transactions affected by the above listed issues of trade time and venue identification, and new findings which identified a failure to submit transactions in the following instances:
- (1) as a result of a specific error message format that was not recognised by DARE;
 - (2) during the resubmission of certain amended transaction reports;
 - (3) following the occurrence of missing trade references in DARE; and

- (4) where transaction reports relating to Credit Suisse Asset Management Limited were reportable through DARE.

Analysis of Breaches

LSE Transactions

- 2.35. Credit Suisse relied on the External ARM to report all LSE transactions on its behalf, but failed to take reasonable steps to verify that the External ARM was reporting such transactions. Consequently, in breach of SUP 17.1.4 R, Credit Suisse failed to report all transactions executed on the LSE during the Relevant Period, constituting approximately 30 million transactions or 25% of total reportable transactions for the period.

Non-LSE Transactions

- 2.36. Credit Suisse failed to report correctly approximately 10 million other transactions, constituting 8% of total reportable transactions during the Relevant Period, in breach of SUP 17.4.1 EU. These errors included:
 - (1) failing to report the unit price in the major currency, which affected just over 300,000 transactions;
 - (2) reporting transactions on exchanges and MTFs as “off-exchange”, which affected approximately 1.3 million transactions
 - (3) reporting transactions using GMT rather than BST during British Summer Time, which affected 6.1 million transactions; and
 - (4) incorrectly populating the counterparty field, which affected approximately 2.2 million transactions (the net figure is 1.7 million as 0.5 million transactions were also affected by the breach in point (2) above).

3. SANCTION

- 3.1. The FSA’s policy on the imposition of financial penalties and public censures is set out in DEPP and EG. In determining the financial penalty, the FSA has had regard to this guidance. The principal purpose of a financial penalty is to promote high standards of regulatory conduct by deterring firms who have breached regulatory requirements from committing further contraventions, helping to deter other firms from committing contraventions and demonstrating generally to firms the benefit of compliant behaviour.
- 3.2. The FSA considers that the seriousness of this matter merits the imposition of a significant financial penalty.

3.3. The FSA has had regard to the following factors:

- (1) the large number of transaction reports which Credit Suisse failed to report, and the number of transaction reports submitted with errors in the period coupled with the lengthy period over which these errors took place, could have severely hampered the FSA in its ability to detect market abuse and reduce financial crime. As the FSA has sent a large number of Credit Suisse's incorrect transaction reports to other competent authorities in compliance with the FSA's obligations under MiFID, the errors also create a serious risk of hampering other competent authorities' work in maintaining market confidence and of damaging the FSA's credibility within the EEA;
- (2) Credit Suisse failed to report all 30 million LSE transactions it executed during the Relevant Period, and inaccurately reported a further 10 million transactions affecting all of its asset classes; and
- (3) Credit Suisse did not implement any controls to ensure that LSE transactions were reported to FSA in accordance with the requirements of SUP 17. Credit Suisse failed to conduct sample testing of the integrity of its data submitted through the External ARM despite the FSA's encouragement to do so in Market Watch Issues 19 and 28 and TRUP and the FSA's stated willingness to provide firms with sample reports so that firms could check those transaction reports against their own records.

3.4. The FSA has also had regard to the following mitigating features:

- (1) Credit Suisse conducted a "Front to Back" Review of its transaction reporting process, and engaged external consultants to provide quality assurance in relation to that review;
- (2) Credit Suisse developed and implemented a quality control process to ensure the accuracy and completeness of transaction reporting to the FSA going forwards;
- (3) Credit Suisse implemented an enhanced Transaction Reporting Awareness training programme;
- (4) Credit Suisse improved communications with the External ARM; and
- (5) the firm cooperated fully with the FSA in the course of its investigation.

4. CONCLUSIONS

4.1. The FSA considers in all the circumstances that the seriousness of the breaches merits a substantial financial penalty. In determining the financial penalty the

FSA has considered the need to deter Credit Suisse and other firms from committing similar breaches. The FSA has also had regard to penalties in other similar cases.

- 4.2. The FSA considers that a financial penalty of £2.5 million is appropriate, discounted to £1.75 million after the applicable Stage 1 discount for early settlement.

5. DECISION MAKERS

- 5.1. The decision which gave rise to the obligation to give this Final Notice was made by the Settlement Decision Makers on behalf of the FSA.

6. IMPORTANT

- 6.1. This Final Notice is given to the Firm in accordance with section 390 of the Act.

Manner of and time for Payment

- 6.2. The financial penalty must be paid in full by the Firm to the FSA by no later than 22 April 2010, 14 days from the date of the Final Notice.

If the financial penalty is not paid

- 6.3. If all or any of the financial penalty is outstanding on 23 April 2010, the FSA may recover the outstanding amount as a debt owed by the Firm and due to the FSA.

Publicity

- 6.4. Sections 391(4), 391(6) and 391(7) of the Act apply to the publication of information about the matter to which this notice relates. Under those provisions, the FSA must publish such information about the matter to which this notice relates as the FSA considers appropriate. The information may be published in such manner as the FSA considers appropriate. However, the FSA may not publish information if such publication would, in the opinion of the FSA, be unfair to you or prejudicial to the interests of consumers.
- 6.5. The FSA intends to publish such information about the matter to which this Final Notice relates as it considers appropriate.

FSA contacts

- 6.6. For more information concerning this matter generally, Credit Suisse should contact Celyn Armstrong (020 7066 2818) or Dan Enraght-Moony (020 7066 0166) at the FSA.

Tracey McDermott

Head of Department

FSA Enforcement and Financial Crime Division