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October 24, 2022

SUPERIOR COURT OF NJ
MERCER VICINAGE
CHANCERY

By: Brian F. McDonough (026121980)
Assistant Attorney General
Toral M. Joshi (026182003)
Brian DeVito (044832010)
Nicholas Dolinsky (044202010)
Deputy Attorneys General

LYNDSAY V. RUOTOLO, Acting Attorney
General of New Jersey on behalf of AMY G.
KOPLETON, Acting Chief of the New Jersey
Bureau of Securities,¹

Plaintiff,

v.

CREDIT SUISSE SECURITIES (USA) LLC,
CREDIT SUISSE FIRST BOSTON MORTGAGE
SECURITIES CORP., and DLJ MORTGAGE
CAPITAL, INC.

Defendants.

SUPERIOR COURT OF
NEW JERSEY, MERCER COUNTY
CHANCERY DIVISION

DOCKET NO.: MER-C-137-13

CIVIL ACTION

**CONSENT ORDER AND
FINAL JUDGMENT**

¹ Pursuant to R. 4:34-4, the caption has been revised from its original form to reflect the designated Acting Attorney General for this case, Lyndsay V. Ruotolo, and current Acting Chief of the New Jersey Bureau of Securities, Amy G. Kopleton.

THIS MATTER was brought before the Court by Lyndsay V. Ruotolo, Acting Attorney General of New Jersey (“Attorney General”), on behalf of Amy G. Kopleton, Acting Chief of the New Jersey Bureau of Securities, (“Bureau Chief” or “Plaintiff”) alleging violations of Sections 52(b) and 52(c) of the New Jersey Uniform Securities Law, N.J.S.A. 49:3-47, et seq. (“Securities Law”); it appearing that Plaintiff and Defendants Credit Suisse Securities (USA) LLC, Credit Suisse First Boston Mortgage Securities Corp., and DLJ Mortgage Capital, Inc. (collectively, “Credit Suisse” or “Defendants”) have agreed to resolve the above-entitled action (the “Enforcement Action”) on the terms provided in this Consent Order and Final Judgment (“Consent Judgment”), which terms have been submitted to the Court for entry with the consent of Plaintiff and Defendants (the “Parties”).

IT IS on this 24th day of October, 2022, **ORDERED AND AGREED** that:

PERMANENT RELIEF

1. Under N.J.S.A. 49:3-69, Credit Suisse shall not:
 - a. Violate the Securities Law; or
 - b. Engage in conduct that violates the terms and conditions of this Consent Judgment or the Administrative Consent Order (“ACO”) referenced below.

FINAL JUDGMENT

2. Final Judgment is hereby entered jointly and severally against Credit Suisse in the total amount of \$495,000,000 (“Settlement Amount”), to be allocated as prescribed by the Bureau Chief in the ACO, which includes restitution in the amount of \$300,000,000 under N.J.S.A. 49:3-69(a) and a civil monetary penalty in the amount of \$100,000,000 under N.J.S.A. 49:3-70.1, as well as costs and fees. For the avoidance of doubt, in accordance with I.R.C. § 162(f), and Treasury Regulation §1.162-21(b), \$300,000,000 of the Settlement Amount is restitution to restore investors

for the potential violation of a law. The Bureau, or its designee, shall use reasonable best efforts to return as much of the \$300,000,000 restitution amount to investors as possible. As applicable, the Bureau, or the appropriate State agency, shall report this amount to the IRS in compliance with I.R.C. § 6050X(a)(1) and Treasury Regulation §1.6050X-1 or any other applicable regulations, and shall report the settlement amount on Form 1098-F in the appropriate boxes of such form. For the avoidance of doubt, the Bureau, or the appropriate State agency, shall report all amounts distributed to investors as restitution in Box 3 on Form 1098-F.

3. Upon the initiation of the wire transfer of the Settlement Amount pursuant to paragraph 102 of the ACO, Credit Suisse permanently and irrevocably relinquishes dominion and all legal and equitable right, title, and interest in the Settlement Amount as of the initiation of that wire transfer.

GENERAL PROVISIONS

4. The Bureau Chief and Credit Suisse have simultaneously executed the ACO , which will be entered by the Bureau Chief when the Court enters this Consent Judgment. Collectively, the ACO and this Consent Judgment contain the terms of the full and final settlement agreement between the Parties. The ACO contains the Bureau Chief's Findings of Fact and Conclusions of Law, made solely for the purpose of settling the Enforcement Action, which Credit Suisse neither admits nor denies.

5. Notwithstanding anything to the contrary in this Consent Judgment, the ACO, or any other document, Credit Suisse and the Bureau hereby stipulate and agree that (a) the entire Settlement Amount constitutes a valid and non-dischargeable debt, and a claim against each of the Defendants, under the United States Bankruptcy Code, including but not limited to 11 U.S.C. §§ 523(a)(2), (a)(6), (a)(7), and (a)(19) and 1141(d)(6); (b) neither any Defendant nor anyone

acting on behalf of any Defendant shall seek to reduce, modify, disallow, or otherwise adversely impact any Defendant's joint and several obligation to pay the Settlement Amount; (c) each of the Defendants irrevocably waives, settles, relinquishes, and releases any right to assert that the Settlement Amount is dischargeable; (d) the facts alleged in the Amended Complaint will be taken as true, without further proof, in any subsequent civil litigation (including through a proof of claim and/or adversary proceeding in any bankruptcy case in which any Defendant is a debtor) or administrative action by or on behalf of the Bureau to enforce its rights to any payment pursuant to the Consent Judgment or ACO, including but not limited to a nondischargeability complaint in any bankruptcy case; (e) the facts alleged in the Amended Complaint establish all elements necessary to sustain an action by or on behalf of the Bureau pursuant to Sections 523 and/or 1141 of the Bankruptcy Code, 11 U.S.C. §§ 523 and 1141, or any related law in any other insolvency proceeding, this Consent Judgment and the ACO will have collateral estoppel effect against Credit Suisse for such purposes, and Defendants irrevocably waive the right to dispute any of the facts alleged in the Amended Complaint in any such action; and (f) if an action alleging that the Settlement Amount constitutes a nondischargeable debt or claim is commenced against any or all of the Defendants by or on behalf of the Bureau, Defendants each hereby irrevocably consent to entry of judgment against each of the Defendants in such action declaring that the Settlement Amount is a valid and nondischargeable debt and waives the right to appeal from, seek reconsideration, rehearing, or reargument of, or otherwise challenge any such judgment.

6. Effective at the time the wire transfer of the Settlement Amount pursuant to paragraph 102 of the ACO is initiated:

- a. The Settlement Amount shall be deemed irrevocably transferred to the Bureau;
- b. The Settlement Amount, the Trust Account (as defined in the ACO), and all

amounts on deposit therein from time to time, including but not limited to the Settlement Amount, are not, and shall not be deemed to be, property of the estate of Credit Suisse or any Person (including but not limited to any of the Credit Suisse Released Parties, as defined in the ACO) within the meaning of 11 U.S.C. § 541 or any similar provision of any other law, and each of the Credit Suisse Released Parties hereby disclaims, releases, and waives any right to assert to the contrary in any proceeding in any forum whatsoever. None of the Defendants or any of the Credit Suisse Released Parties shall at any time have any right, interest, or title in or to, or custody, control, or possession of, the Trust Account or any amounts on deposit therein, including but not limited to the Settlement Amount, and therefore shall not have the ability to pledge, convey, hypothecate, or grant as security all or any portion of the Settlement Amount, the Trust Account, or any other amounts on deposit in the Trust Account.

- c. Lowenstein Sandler LLP shall be in sole possession, custody, and control of the Trust Account and all amounts on deposit therein from time to time, including but not limited to the Settlement Amount, subject to the terms of the ACO and this Consent Judgment, as applicable, and shall not act as custodian or trustee of or for the benefit of any of the Defendants or the Credit Suisse Released Parties for any purpose, including but not limited to perfecting a security interest therein, and no creditor of the Bureau or the Credit Suisse Released Parties shall have the right to have or to hold or otherwise attach or seize all or any portion of the Trust Account or the Settlement Amount as collateral for or

in satisfaction of any obligation, and shall not be able to obtain a security interest in the Settlement Amount or any other funds in the Trust Account.

- d. Each of the Defendants and the Credit Suisse Released Parties hereby disclaims, releases, and waives any right it may have to assert that it has any right, interest, or title (equitable or otherwise) to the Settlement Amount and the Trust Account or any amounts on deposit therein from time to time.
- e. In the event of the entry of a final order of a court of competent jurisdiction determining the transfer of the Settlement Amount or any portion thereof to or from the Trust Account, or the transfer of the restitution or any portion thereof to or from the Escrow Agent and/or the Claims Administrator (each as defined in the ACO), as applicable, to be a preference, voidable transfer, fraudulent transfer, or similar transaction, and if any portion thereof is required to be returned, and such amount is not promptly deposited into the Trust Account or with the Escrow Agent (as applicable) by others, then, at the election of the Bureau, the Bureau Chief may move the Court (and Credit Suisse waives the right to contest such motion) to vacate and set aside the release given and this Consent Judgment, in which event the Bureau, the Bureau Chief, and Credit Suisse shall be restored to their litigation positions as of October 14, 2022.

7. Defendants each represent and warrant, as of the time they enter into this ACO and as of the time the Settlement Amount is paid, that they are not insolvent and that they will not be rendered insolvent or be left with an unreasonably small capital, within the meaning and for the purposes of Title 11 of the United States Code (including but not limited to sections 101, 547, and 548 thereof) and any similar state and/or foreign law, from the payment of the Settlement Amount.

The foregoing representation is made by Defendants themselves, and not by their counsel.

8. Credit Suisse waives any right or ability to appeal or challenge this Consent Judgment.

9. Credit Suisse shall not assert any defenses or otherwise challenge this Consent Judgment.

10. This Consent Judgment shall bind Defendants and their affiliates, predecessors, successors and assigns, and their current and former directors, trustees, partners, executors, members, agents, officers, employees, representatives, attorneys, consultants, and administrators.

11. Nothing in this Consent Judgment shall be construed to limit or affect any position or action that the Bureau Chief may take in any future or pending investigation or action not specifically encompassed herein.

12. Defendants represent that an authorized representative of each Defendant, with authority to legally bind Defendants, has signed this Consent Judgment with full knowledge, understanding, and acceptance of its terms.

13. Defendants represent that they have had a full and complete opportunity to consult with counsel of their choosing before signing this Consent Judgment.

14. The terms and conditions of this Consent Judgment may only be modified by written consent of the Parties or by order of this Court.

15. The Bureau Chief may, at the Bureau Chief's option, docket the final judgment against Defendants and may take such other steps in any jurisdiction to enforce this Consent Judgment.

16. If any portion of this Consent Judgment is held invalid or unenforceable by operation of law or court order, the remaining terms of this Consent Judgment shall remain in full

force and effect.

17. The Parties acknowledge that New Jersey law shall govern the terms, provisions, and enforcement of this Consent Judgment.

18. This Consent Judgment may be signed in counterparts, and by electronic or facsimile signature, each of which shall be deemed an original.

Kay Walcott-Henderson
Hon Kay Walcott-Henderson, P.J. Ch.

Consent to the Form, Content and Entry of this Consent Order and Final Judgment:

Defendant Credit Suisse Securities (USA) LLC

11 Madison Avenue
New York, New York 10010

By: *Jaclyn A Barnao*

Dated: October 23, 2022

Defendant Credit Suisse First Boston Mortgage Securities Corp.

11 Madison Avenue
New York, New York 10010

By: *Jaclyn A Barnao*

Dated: October 23, 2022

Defendant DLJ Mortgage Capital, Inc.

11 Madison Avenue
New York, New York 10010

By: *Jaclyn A Barnao*

Dated: October 23, 2022

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/s/ Brian F. McDonough

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