

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**SECURITIES ACT OF 1933**  
**Release No. 11001 / October 19, 2021**

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 93382 / October 19, 2021**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-20629**

<p><b>In the Matter of</b></p> <p style="text-align:center"><b>Credit Suisse Group AG</b></p> <p><b>Respondent.</b></p>
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**ORDER INSTITUTING CEASE-AND-DESIST PROCEEDINGS PURSUANT TO SECTION 8A OF THE SECURITIES ACT OF 1933 AND SECTION 21C OF THE SECURITIES EXCHANGE ACT OF 1934, MAKING FINDINGS, AND IMPOSING A CEASE-AND-DESIST ORDER**

**I.**

The Securities and Exchange Commission (“Commission”) deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 8A of the Securities Act of 1933 (“Securities Act”) and Section 21C of the Securities Exchange Act of 1934 (“Exchange Act”), against Credit Suisse Group AG (“Credit Suisse” or “Respondent”).

**II.**

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the “Offer”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, Respondent admits the Commission’s jurisdiction over it and the subject matter of these proceedings, and consents to the entry of this Order Instituting Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933 and Section 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing a Cease-and-Desist Order (“Order”), as set forth below.

### III.

On the basis of this Order and Respondent's Offer, the Commission finds<sup>1</sup> that:

#### **Summary**

1. This matter concerns an offering fraud and violations of the internal accounting controls and books and records provisions of the Foreign Corrupt Practices Act by Credit Suisse, from 2013 to 2016, in connection with three interconnected transactions involving, among others, United Kingdom-based Credit Suisse entities and Mozambican state-owned entities. The transactions include a syndicated loan and two securities offerings by Mozambican state-owned entities, the first of which Credit Suisse underwrote, structured, marketed and distributed, and the second of which Credit Suisse underwrote, structured, marketed and distributed as a joint lead manager with another international investment bank, VTB Capital plc ("VTB"). Specifically, the transactions—the latter two of which are securities offerings—include: (1) a 2013 \$622 million syndicated loan to a Mozambican state-owned entity known as ProIndicus S.A. ("Proindicus"), for which Credit Suisse provided \$504 million in financing—and an extension of payment terms in a later, related transaction; (2) a 2013 \$850 million offering of interest-bearing loan participation notes ("LPNs") marketed and sold to the international bond market to finance debt offered to a second Mozambican state-owned entity known as Empresa Mocambicana de Atum S.A. ("EMATUM"), to which Credit Suisse also provided \$500 million in financing; and (3) a 2016 bond offering by the Republic of Mozambique, commenced after Credit Suisse discovered several irregularities and risks associated with the EMATUM offering, that allowed investors to exchange their LPNs for new sovereign bonds issued directly by the government of Mozambique (the "Exchange Offer"). The-then Minister of Finance signed a guarantee on behalf of Mozambique for the ProIndicus and EMATUM LPN transactions. Mozambique has since disputed the validity of the guarantees.

2. Credit Suisse, through the actions of three former bankers, Banker 1, Banker 2, and Banker 3 (collectively, the "CS Bankers") as further described herein,<sup>2</sup> knew that ProIndicus and EMATUM were newly formed state-owned entities with no prior business operations. The ProIndicus and EMATUM projects were vehicles through which the CS Bankers and intermediaries received kickbacks and corrupt Mozambique government officials obtained bribes, which were paid by the intermediaries. The CS Bankers, who hid the corruption scheme and their kickbacks from other members of management, received kickbacks totaling at least \$50 million. Together with Mozambican government officials, the improper payments and kickbacks totaled at least \$200 million.

3. The CS Bankers were able to carry out the long-running scheme as a result of Credit Suisse's deficient internal accounting controls environment, in which the bank acted unreasonably in addressing bribery risks associated with the transactions. By the time of the EMATUM LPN

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<sup>1</sup> The findings herein are made by the Commission in connection with Respondent's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

<sup>2</sup> The CS Bankers were indicted by the U.S. Attorney's Office for the Eastern District of New York and each has entered a guilty plea.

offering, Credit Suisse, through the actions of the CS Bankers, hid the underlying corruption scheme and drafted offering materials on behalf of Mozambique that falsely represented to investors that the proceeds would be used exclusively to develop the country's tuna fishing industry and generate revenues to make principal and interest payments to investors. The offering materials drafted by Credit Suisse also failed to sufficiently disclose to investors its conflict of interest—that the bank was a major creditor under the ProIndicus transaction with interests, in certain respects, adverse to noteholders. Further, Credit Suisse knew or should have known that the debt disclosures provided by Mozambique were false and misleading because they failed to disclose Mozambique's true level of indebtedness and, relatedly, its risk of default on the notes and ability to pay back investors. These disclosure failures rendered the offering materials false and misleading.

4. By 2016, after Credit Suisse learned that EMATUM would not be able to meet repayment obligations under the schedule provided for in the LPNs and of other red flags surrounding the transaction, Credit Suisse and VTB structured the Exchange Offer to allow investors to exchange the LPNs they already held for new sovereign bonds issued directly by the government of Mozambique. By the time of the closing, Credit Suisse knew the full scope of Mozambique's debt from financing extended by VTB, including a \$535 million 2014 loan to a third government-owned entity known as Mozambique Asset Management ("MAM") provided by VTB, as well as an additional \$118 million to ProIndicus and \$350 million to EMATUM funded by VTB. The-then Minister of Finance, again, signed a guarantee on behalf of Mozambique for the MAM transaction, though Mozambique has since disputed the validity of the guarantee.

5. In connection with the Exchange Offer, the offering materials prepared by Credit Suisse on behalf of Mozambique did not disclose to investors the true nature of Mozambique's indebtedness and the magnitude of missing funds from the prior offering. Specifically, the offering materials failed to accurately and fully disclose Mozambique's indebtedness, including over \$622 million in financing that it and VTB had provided to Mozambique through the ProIndicus transaction and \$535 million in financing that VTB had provided to MAM. The offering materials also failed to disclose to investors the existence of the ProIndicus and MAM transactions and the banks' conflicts of interests relating to these transactions. While the offering documents for the EMATUM and Exchange Offer included disclosures that Credit Suisse was a party to other financing agreements, the conflict of interest—that the bank was a major creditor under the ProIndicus transaction with interests, in certain respects, adverse to noteholders—was not specifically disclosed. As a result, investors in EMATUM LPNs and the Exchange Offer were not provided with a complete and accurate picture of the true nature and magnitude of the country's debt, the high risk of default on the LPNs and that Credit Suisse had placed its own interests as a creditor above bondholders.

6. In April 2016, shortly after investors approved the Exchange Offer and after news reports on "secret" debt, Mozambique disclosed the ProIndicus and MAM transactions and the true nature of its guaranteed debt. Simultaneously, it emerged that since, at least 2013, Mozambique had misrepresented its public and publicly-guaranteed indebtedness to the International Monetary Fund ("IMF"). The IMF and other international donors halted financial support to Mozambique and, in turn, the country defaulted on the bonds.

7. The EMATUM LPN transaction is the basis for the violations of Exchange Act Section 10(b) and Rule 10b-5 and Securities Act Section 17(a)(1). The EMATUM and Exchange

Offer transactions are the bases for violations of Securities Act Sections 17(a)(2) and 17(a)(3). From 2013 to 2016, Credit Suisse engaged in violations of the books and records and internal accounting controls provisions of the Exchange Act, including violations of the Foreign Corrupt Practices Act.

### **Respondent**

8. Credit Suisse Group AG (“Credit Suisse” or “the Bank”) is a multinational investment bank and financial services company based in Switzerland. Credit Suisse’s American Depository Receipts are listed on the NYSE under the symbol “CS,” and its securities are registered with the Commission pursuant to Section 12(b) of the Exchange Act. The U.K. Credit Suisse entities involved in the underlying conduct include: Credit Suisse International (“CSI”), Credit Suisse Securities (Europe) Limited (“CSSEL”), and Credit Suisse AG, London Branch (“CSLB”). Credit Suisse is the direct or indirect holding company for Credit Suisse’s subsidiaries.

### **Facts**

#### **The ProIndicus Transaction**

9. On February 28, 2013, Credit Suisse agreed to arrange a \$372 million syndicated loan to ProIndicus, a newly-formed company that was owned and controlled by the government of Mozambique. A few weeks before, on January 18, 2013, ProIndicus entered into a \$366 million contract with an intermediary based in the United Arab Emirates (“Intermediary”) that was to provide equipment and services to ProIndicus in connection with certain maritime projects. Between June and August 2013, Credit Suisse agreed to upsize the loan to ProIndicus by an additional \$132 million, bringing the total financing amount to \$504 million. The financing represented a landmark expansion for the bank’s footprint in the Sub Saharan Africa region. In November 2013, VTB extended another \$118 million to ProIndicus, bringing the total amount of the financing to \$622 million. Since inception of the loan, Credit Suisse has been the largest member of the loan syndicate. The then-Minister of Finance signed a guarantee on behalf of Mozambique for these transactions. Mozambique has since disputed the validity of the guarantee.

10. ProIndicus was officially established to supply vessels and training to protect Mozambique’s coastline and maritime interests. The proceeds from the financing from Credit Suisse and VTB were supposed to be used exclusively for maritime projects known as the “Exclusive Economic Zone” project (the “Project”). The loan agreement specifically required ProIndicus to “apply all amounts borrowed by it under the Facility towards the financing of the ...Project” and prohibited improper payments in violation of FCPA and other anti-bribery laws.

11. In reality, ProIndicus was set up by Mozambican government officials acting in collusion with an agent of the Intermediary (“Intermediary Agent”) in order to carry out an extensive scheme involving improper payments to government officials and others. As part of the scheme that began in 2012, only a portion of the loan proceeds were applied towards maritime projects while the rest were diverted for kickbacks to the CS Bankers and the Intermediary Agent, and bribes to Mozambican government officials. The deal was also structured to hide the level of Mozambique’s indebtedness from the IMF. Subsequently, near the time of the closing of the ProIndicus transaction

in 2013, the CS Bankers agreed to accept improper kickbacks, which, alongside the improper payments to government officials were hidden from other members of Credit Suisse management. From 2013 through 2016, the CS Bankers, Mozambican officials and others received improper payments, in total, of approximately \$200 million in connection with securing the ProIndicus and EMATUM financings.

12. Several contemporaneous communications reflect that improper payments were intended to be paid to Mozambican government officials by the Intermediary, and the deals were structured to build into the financing the amounts that would be paid. For example, in a 2012 email from the Intermediary Agent to Banker 3 and two other Bank employees, he stated that “[a] ‘premium’ is well expected by the Mozambicans.” Around the same time, the Intermediary Agent also advised Banker 3 in a phone discussion that a high ranking Mozambican official understands that he will be paid a premium from the financing deal.

13. In connection with the ProIndicus transaction, Credit Suisse’s books and records did not record the fact that a substantial portion of the ProIndicus financing proceeds would be paid as improper payments to numerous senior-level government officials in Mozambique or as kickbacks to the CS Bankers. Following the closing of the ProIndicus transaction, on March 21, 2013, Credit Suisse transferred \$327.9 million in loan proceeds to an Intermediary account in Abu Dhabi, and in June and August 2013, Credit Suisse made two additional transfers of loan proceeds into the same account, all through U.S. correspondent banks. In total, Credit Suisse transferred \$547,463,200, including \$446,950,800 that it arranged and \$100,512,400 that was arranged by VTB, to the Intermediary, from which bank records of the Intermediary reflect that improper payments were made to Mozambican officials and the Intermediary Agent and others, and kickbacks to the CS Bankers.

14. Shortly after the first transfer to the Intermediary in March 2013, Intermediary bank records indicate transfers of over \$80 million to accounts controlled by Mozambican government officials and others relating to the transaction. The transfers included a transfer of \$50 million from which a relative of a high-level government official shared part of the payment with key government officials, who approved the transaction and authorized the-then Minister of Finance to sign the guarantee. Intermediary bank records reflect additional improper payments, including, for example, \$13 million paid to government officials holding senior positions at ProIndicus and a \$5 million payment to a senior official who reported to the-then President of Mozambique.

15. The CS Bankers were able to carry out the scheme as a result of deficiencies in Credit Suisse’s internal accounting controls, unreasonable reliance on the CS Bankers to structure the deal, and inadequate appreciation of bribery risks that came to the attention of the bank’s reputational risk, credit risk and compliance groups. The CS Bankers, for example, structured the financings to transfer all proceeds directly to accounts controlled by the Intermediary in Abu Dhabi rather than to the borrower in Mozambique. Credit Suisse also transferred the funds directly to the Intermediary despite being aware of allegations of corrupt practices concerning the Intermediary.

16. The Bank’s financial crime compliance group commissioned and received a third-party diligence report that quoted an anonymous source describing the Intermediary’s principal (“Intermediary Principal”) as a “master of kickbacks” and included other information, including:

- a. “All sources we spoke to about [Intermediary Principal] were confident of his past and continued involvement in offering and receiving bribes and kickbacks” and “raised concerns about the integrity of [Intermediary Principal’s] business practices,” and that “[Intermediary Principal] was heavily involved in corrupt practices.”
- b. “Another banking source close to a Lebanese commercial bank that previously dealt with [Intermediary Principal and his brother] and the [Intermediary] group of companies stated: “[Intermediary Principal] is a first-class deal maker and an expert in kickbacks, bribery and corruption.””

17. The information provided to the compliance team in their diligence efforts also included that the Intermediary Principal’s business was being conducted “in a more classical way, more in compliance with the rules of ethics.” A source also reported that UAE authorities were not aware of information tying the Intermediary to corrupt practices, and that the Intermediary Principal had been removed from a screening service due to the age of some of the allegations against him. Credit Suisse, nonetheless, acted unreasonably in failing to properly consider the totality of bribery risks surrounding the transaction that came to its attention.

18. In March 2013, a Director in the Bank’s Europe, Middle East and Asia (“EMEA”) group warned that Intermediary Principal was an “undesirable client” for the bank and he and his entities had been, in the past, “obviously involved in corrupt practices.” EMEA advised against providing the financing “given that we are not comfortable with Intermediary Principal and his entities” and recommended rejecting any financing that involved the Intermediary Principal and his entities because of corruption risks. In November 2012, an email among Banker 1 and Banker 2 and an EMEA Managing Director and Director stated “[the EMEA CEO] said no to the combination of Moz[ambique] and your friend [Intermediary Principal], so we need to structure him out of the picture.”

### **The EMATUM LPN Offering**

19. Credit Suisse and VTB acted as joint-lead managers and underwriters for an \$850 million offering for securitized LPNs issued by EMATUM, a newly formed state-owned entity controlled by the government of Mozambique. EMATUM was created as a tuna-fishing company and entered into a \$768 million contract, dated August 2, 2013, to purchase vessels and equipment from an affiliate of the Intermediary (“Intermediary Affiliate”). The interest-bearing LPNs were sold in two tranches: (1) \$500 million that was underwritten and offered by Credit Suisse in September 2013 on a firm commitment basis; and (2) \$350 million that was underwritten and offered by VTB in October 2013. Credit Suisse, as the lead underwriter and selling agent for EMATUM, held the \$500 million on its books until the notes were sold to investors.

20. The EMATUM project was originally conceived as a \$250 million project, but, over the space of two weeks, the amount of the proposed project grew to \$850 million, which provided more funds to be available for kickbacks and improper payments. In order to maximize the sales of the securitized debt, Credit Suisse marketed the offering to the international bond market, which included funds advised by United States investment advisers, and U.S investors in the secondary

market. The then-Minister of Finance, again, signed a guarantee on behalf of Mozambique for this transaction, though Mozambique has since disputed the validity of the guarantees.

### **The Improper Payment Scheme**

21. The Offering Circulars for EMATUM's issuance of LPNs were created and drafted by Credit Suisse and provided by Credit Suisse to investors. The Offering Circulars disclosed that the proceeds would be used "towards the financing of the purchase of fishing infrastructure, comprising of 27 vessels, an operation center and related training and for the general corporate purposes of the Borrower [...]" and falsely disclosed that EMATUM would not "use the proceeds of any Loan, or make available to any person, for the purpose of financing or facilitating any activity that would violate Anti-Corruption Laws, or in any way which constitute a Corrupt Act."

22. As with ProIndicus, EMATUM, through the acts of the CS Bankers, was used as a vehicle to divert proceeds to themselves as kickbacks and make improper payments to government officials through the Intermediary. The CS Bankers also hid the underlying corruption and kickback scheme from other members of Credit Suisse management. For example, in a July 26, 2013 email using non-Credit Suisse email accounts, the Intermediary Agent informed Banker 1 and Banker 2: "Bro for fish: [Intermediary Affiliate] contract 750 and 50 between [Intermediary Related Entity] and MoF [Minister of Finance]?" In a subsequent July 2013 email, the Intermediary Agent advised the CS Bankers that the EMATUM financing would need to be increased from \$750 million to \$825 million in order to include a cushion for payments to government officials, stating: "825 please. 25 on top of the 50 to the borrower." Further, a spreadsheet maintained by Intermediary reflects over \$600 million as payable to an account controlled by Intermediary Principal, with over \$100 million being paid to government officials and others involved in the approval process.

23. Following instructions out of Mozambique that the structuring should be designed to "prevent any defaulting situation in the repayment obligations," the Intermediary Agent, Banker 1 and Banker 2 also discussed \$51 million as part of the \$850 million EMATUM financing in order to cover interest payments that ProIndicus and EMATUM were obligated to pay in March and September 2014. In an email dated July 21, 2013, the Intermediary Agent discussed with Banker 1 and Banker 2 on their personal emails, "[w]e will go for \$800 million so we can keep a cushion for ProIndicus interest payment next year." They also discussed "we should keep a cushion for ProIndicus of \$17m so that we don't need to go back to MoF [Minister of Finance] and they are on our side" and "we need to keep an interest cushion of 18 months for the bond interest payments so that everyone is comfortable the bond doesn't default until the fleet is up and running." ProIndicus lacked the ability to meet its interest obligations and the cushion allowed the corruption scheme to continue undetected, as a default on ProIndicus interest payments would have caused investors to question the legitimacy of EMATUM.

24. In two separate transfers on September 11 and October 11, 2013, Credit Suisse sent \$759.8 million from LPNs the bank purchased directly to an Intermediary controlled account in Abu Dhabi, through a U.S. correspondent bank. Until mid-October, when Credit Suisse finished selling the entire note offering, the unsold portion of the securitized debt from the firm commitment offering remained on its books.

25. The CS Bankers were able to carry out the scheme as a result of deficiencies in the bank's internal accounting controls, unreasonable reliance on the CS Bankers to structure the deal and inadequate response to bribery risks that came to the attention of the bank's reputational risk, credit risk and compliance groups. Despite identified risks, Credit Suisse structured the financings to transfer all proceeds directly to accounts controlled by the Intermediary in Abu Dhabi rather than to the borrower in Mozambique.

26. From the Proindicus and EMATUM loan proceeds, the Intermediary made improper payments to the Intermediary Agent and Mozambican government officials and paid kickbacks to the CS Bankers. The Intermediary paid \$45 million to Banker 1, who in turn paid \$2 million to Banker 3 and \$2.2 million to Banker 2. In addition, the Intermediary paid \$3.7 million to Banker 3 directly. Mozambique officials received payments from Intermediary totaling approximately \$150 million, including, but not limited to, \$5 million paid to an official involved in approving the transaction, \$8.8 million to a relative of a senior government official, and \$11.9 million to a government official who was also an officer of EMATUM.

### **Credit Suisse Goes Forward with the Offering Despite Risks**

27. At the time of the EMATUM LPN offering, based on the ProIndicus due diligence review, Credit Suisse understood the corruption risks associated with Intermediary Principal and Intermediary Affiliate. The EMATUM LPN offering presented virtually identical irregularities and risks as the ProIndicus transaction. The transaction involved another maritime contractor affiliated with the same Intermediary Principal who was identified as potentially corrupt; Credit Suisse remitted funds to an entity controlled by Intermediary Principal instead of Mozambique or the state-owned entity obtaining the securitized financing; and the financing had not gone through an approval process with the Mozambique parliament

28. In connection with the EMATUM offering, Credit Suisse prepared an approval memorandum for its European Investment Banking Committee ("EIBC"), which highlighted a number of risks with respect to the transactions, including that all the funds would be remitted to an account controlled by Intermediary Principal.

29. Credit Suisse also learned that a due diligence questionnaire in connection with the ProIndicus transaction reflected that Intermediary and its related entities were not selected from a competitive bidding process, but rather, from "high level connections" between Intermediary and the Mozambican government. Although Banker 3 provided falsified competitive bid information for the EMATUM project, Credit Suisse did not perform sufficient due diligence concerning the Intermediary Principal or his entities in connection with the EMATUM transaction. Further, Credit Suisse agreed to the total financing amount, including the \$51 million increase for covering interest payments for which ProIndicus was responsible, without determining how the additional funds to the Intermediary would be utilized.

30. A memo was prepared for the Credit Risk Management Committee ("CRM"), which stated that, as had been the case with the ProIndicus financing in March 2013, because the

EMATUM financing was not a direct obligation of Mozambique, it would “not be included in the government’s debt outstanding and will not [as it is a contingent obligation] be reflected in the state budget.” As a result, investors could not have ascertained the impact that the financing would have on Mozambique’s debt level and risk of default through IMF reporting.

31. Despite the due diligence failures, Credit Suisse’s CRM function, EIBC and Reputational Risk function, which included an Anti-Money Laundering review, approved the transaction in August 2013. In connection with the EMATUM transaction, Banker 3 signed transaction documents on behalf of Credit Suisse.

32. The Credit Suisse U.K. entities were subject to examinations by the U.K.’s Prudential Regulation Authority (PRA) which, in October 2013, identified a number of reputational risk process shortcomings based on an examination of the ProIndicus transaction. The PRA found that the bank maintained “an informal reputational risk committee and light reputational risk process” which “lacked a holistic overview and insight of the risks that we would expect to be present in a formal committee,” and had a “status quo culture and lacked a forward looking credit risk strategy.” Although the exam did not find unacceptable reputational or credit risk, it did disclose a number of additional credit risk management weaknesses and directed the bank to promptly remediate.

### **Disclosure Failures**

33. The EMATUM LPN offering document created by Credit Suisse stated: “No statement is made in this offering circular about the creditworthiness of Mozambique. Any prospective investor must make their own investigations relating to the creditworthiness of Mozambique.” Credit Suisse, however, knew that it structured, underwrote and provided \$504 million in debt to a state-owned entity, ProIndicus, and that VTB had provided an additional \$118 million in debt to ProIndicus. Because the IMF and the Mozambican parliament were excluded from the transaction, the ProIndicus debt did not appear on IMF Country Reports and was not otherwise publicly known. As such, investors would have looked to the offering disclosures created by Credit Suisse for this information. Given that investors understood that the financing to EMATUM was guaranteed by Mozambique, they viewed it as a sovereign obligation, making the country’s total indebtedness highly material because it increased the risk of default on the LPNs.

34. Although the EMATUM LPN offering document disclosed the possibility that Credit Suisse maintained lending and other relationships with Mozambique and affiliated entities, in failing to specifically disclose the ProIndicus loan, the offering document used by Credit Suisse to sell EMATUM LPNs also failed to disclose Credit Suisse’s conflict of interest with EMATUM bondholders. At the time of the EMATUM transaction, Credit Suisse understood that Mozambique had interest obligations to Credit Suisse which was not disclosed to the EMATUM investors. Under the terms of the ProIndicus loan at the time, Credit Suisse, as a creditor, would be repaid in March 2019, before the EMATUM notes matured in September 2020. The offering materials created by Credit Suisse, however, did not disclose that Credit Suisse could be paid in full on the ProIndicus loan 18 months before the EMATUM noteholders. These disclosures failures rendered the offering materials false and misleading.

### **IMF Discovery of the EMATUM Transaction**

35. Starting in late September 2013, several news outlets reported that proceeds from the EMATUM LPN transaction had been allegedly diverted towards Mozambique's procurement of military vessels from a French shipyard owned by the Intermediary Principal. Based on this reporting, the IMF, for the first time, became aware of the EMATUM loan underlying the LPNs that had been guaranteed by the Minister of Finance and the use of proceeds of the loan. As a consequence, the IMF required Mozambique to include \$500 million from the EMATUM obligation as defense spending in the country's budget.

36. In its country reports on Mozambique from January 2014 through 2015, the IMF noted several risks and concerns surrounding the EMATUM transaction. In the January 2014 and August 2015 country reports, the IMF noted "the lack of transparency regarding the [EMATUM] use of funds and the secretive manner in which the project was evaluated, selected, and implemented outside the government's macro-economic strategy [...]" and that the project "raised serious governance concerns." In its December 2015 IMF Staff Report, the IMF warned of the need to limit additional new government guaranteed debt and monitor state-owned enterprises. The ProIndicus transaction, which was structured in a similar manner to EMATUM, was not included in any IMF publication.

### **The 2014 ProIndicus Extension Transaction**

37. In December 2014, Credit Suisse entered into another transaction with ProIndicus to restructure and extend the interest and principal payment terms under the facility agreement ("Extension") from 2019 to 2021. The Extension agreement also increased the facility amount that ProIndicus was able to borrow from \$622 million, which had already been funded by Credit Suisse and VTB, to \$900 million. At the time, Credit Suisse was carrying approximately \$277 million in debt owed by ProIndicus.

38. At the time of the Extension, Credit Suisse was aware of several risks and continued to maintain deficient internal accounting controls. Specifically, Credit Suisse was aware that: (a) ProIndicus was operating at a loss, was about to default on its next interest payment, and that its auditor had doubts concerning its ability to continue as a going concern; (b) the due diligence for the ProIndicus and EMATUM deals had revealed potential risks that the transactions could be executed outside of management's general or specific authorization; (c) press outlets had reported that funds from the EMATUM LPN financing (which was structured similarly to ProIndicus), may have been diverted; and (d) Bankers 1 and 2, who had structured the ProIndicus deal, had left Credit Suisse to work at an entity ("Intermediary Related Entity"), owned and controlled by Intermediary Principal—and were now representing Mozambique in negotiating the Extension. In approving the Extension transaction despite these risks, Credit Suisse failed to provide reasonable assurance that the transaction was executed in accordance with management's general or specific authorization and continued to maintain books and records that did not reflect the true nature of the loan and use of proceeds.

## **The 2016 Exchange Offer**

### **Background Events Leading to the Exchange Offer**

39. By 2014, Mozambique was unable to service the nearly \$2 billion in debt that had been amassed through the ProIndicus, EMATUM LPN and MAM transactions. By year-end 2014, EMATUM failed to generate significant revenue and its audited financials reflected that it had incurred \$24.5 million in losses. By this time, the press had also reported on EMATUM's poor financial condition and that EMATUM would miss its first amortization payment on the LPNs, due in September 2015. By 2015, in addition to the risk of default by EMATUM, Credit Suisse learned of several potential reputational and financial risks, given its role in underwriting, distributing, marketing and selling the notes.

40. In July 2015, Credit Suisse, VTB and the government of Mozambique began discussions regarding restructuring the EMATUM LPNs to a sovereign bond issued by Mozambique that was non-amortizing, with extended repayment terms. In internal emails, Credit Suisse personnel advocated leading the Exchange Offer to allow the Bank to "maintain control of the situation," and that it would be detrimental from "a Reputational Risk perspective" if another bank were brought in to "clean up" the trade. Involvement in restructuring of the notes also allowed Credit Suisse to protect its interests as a ProIndicus creditor. Credit Suisse personnel, for example, noted that "the impact of any EMATUM default on ProIndicus is significant, particularly given the issue of cross-default. . . [and] [t]his re-emphasizes the importance of us [Credit Suisse] being involved in the exchange/restructuring."

41. In discussions leading up to the Exchange Offer, Credit Suisse risk management personnel noted that EMATUM had been characterized in the public press as Mozambique's "worst ever corruption scandal," that there were allegations of "mismanagement and misappropriation," that the transaction had been consummated "in secret without going through the normal parliamentary channels," and that there were allegations that equipment received had been "overpriced and not fit for purpose... and that the overpricing profited government ministers." In response, Credit Suisse conducted due diligence on the Exchange and underlying EMATUM LPN transaction.

42. Bankers 1 and 2, two years prior to this time, left Credit Suisse to work for the Intermediary Related Entity, while Banker 3 remained a Credit Suisse managing director, but continued to hide the underlying corruption and kickback scheme from other members of Credit Suisse management, including those responsible for the Exchange Offer. In connection with the Exchange Offer, Banker 1 and Banker 2 now represented the Republic of Mozambique, which had retained Intermediary Related Entity, to lead discussions with Credit Suisse and VTB concerning the offering, including the disclosure of Mozambique's debt. In a September 7, 2015 email, a Credit Suisse director noted the involvement of Bankers 1 and 2 on behalf of Mozambique created "sensitivity."

43. On March 9, 2016, the Exchange Offer was announced and Credit Suisse subsequently prepared and distributed Mozambique's offering materials to solicit consent from investors in the EMATUM LPNs. The Exchange Offer allowed investors of LPNs, of which approximately 39% were U.S. investors who had made purchases on the secondary market, to

exchange the EMATUM notes for new bonds issued directly by the government of Mozambique. In mid-March, Credit Suisse participated in road shows in New York and London, where the Mozambican Minister of Finance at the time represented to investors that the information memorandum contained in the offering materials included the total amount of the debt of Mozambique, including all guarantees. By March 23, 2016, bondholders voted in favor of the Exchange Offer and the results were announced on April 1, 2016.

## **Material Misrepresentations and Omissions in the Exchange Offer**

### **Conflicts of Interest**

44. The Exchange Offer offering materials prepared by Credit Suisse failed to properly disclose Credit Suisse's conflicts of interests in having rights as a creditor under the ProIndicus transaction that were, in certain respects, adverse to investors. The Exchange Offer extended Mozambique's repayment obligations to investors to 2023 (when the bond matured), but Mozambique was obligated to pay Credit Suisse and VTB interest and principal under the ProIndicus loan *before* making payments on the notes to investors. In 2014, after Credit Suisse became aware that ProIndicus had not earned revenue, the bank restructured the ProIndicus loan to extend the maturity to 2021 (from 2019), two years before the Exchange Offer bond matured. In addition, the offering materials failed to disclose VTB's financing to MAM and VTB's similar conflict of interests in having interests under the ProIndicus and MAM loans that were, in certain respects, adverse to noteholders. While the offering documents for the Exchange Offer included disclosures that Credit Suisse was a party to other financing agreements, the conflict of interest—that the bank was a major creditor under the ProIndicus transaction with interests, in certain respects, adverse to noteholders—was not specifically disclosed. The disclosure failures rendered the offering materials false and misleading.

45. Several internal communications reflect that Credit Suisse gave consideration to its interests as a creditor in the ProIndicus transaction and in retaining business interests with Mozambique in its dealings on the Exchange Offer, as well as the risk that alienating Mozambique could impact the country's cooperation with the bank's due diligence efforts. A January 29, 2016 internal email, for example, stated: "If we cancel our involvement with the bond Mozambique will not cooperate with us at all going forward on anything including providing us with information on the Trimarans & Tuna Boats. In addition we need Moz to cooperate with us on other interests in Moz (eg ProIndicus Loan)." Another email similarly stated "[s]hould we alienate Mozambique they will not cooperate." In a February 9, 2016 email, several senior bank employees discussed "key priorities" that the bank must "ensure our investors (and ourselves) are looked after under EMATUM LPNs [loan participation notes]...and under ProIndicus Loan" and recognized that, under both transactions, Mozambique had interest payments coming due in March 2016.

46. As early as July 2015, the bank's reputational risk group warned about risks associated with Credit Suisse's continued association with Mozambique following the EMATUM "bad deal." Credit Suisse, in fact, recognized that the "reputational damage would be significant if CS wasn't involved in restructuring the deal and another bank was brought in instead." Other emails discussed that the "EMATUM transaction has proved problematic from (i) a media perspective... and use of proceeds" and, as a result, Credit Suisse needed to remain involved in the Exchange

Offer and “look after our investors...protect our exposures...protect our reputation...resolve any outstanding queries with respect to [due diligence].”

47. The offering materials created by Credit Suisse also failed to disclose the ProIndicus loan to investors. Even though the ProIndicus transaction was specifically disclosed in earlier drafts of the offering materials, a member of the deal team instructed that all references to the transaction be removed. The ProIndicus loan documents included a confidentiality clause. An email between a senior bank official and Banker 2 states that “WE CAN’T DISCLOSE THE TERMS OF PRIVATE CONTRACTS.”

### **Diversion of Funds**

48. The offering materials prepared by Credit Suisse for Mozambique’s Exchange Offer disclosed that the press had reported that proceeds from the EMATUM LPNs were used to purchase defense equipment rather than tuna boats and, thus, “called into question whether all of the proceeds of the issuance of the Existing Notes were used for authorized or appropriate purposes.” The disclosure also noted that “EMATUM ha[d] experienced losses” that create risks surrounding the ability to service the notes.

49. In preliminary due diligence concerning the Exchange Offer, Credit Suisse’s Bribery and Anti-Corruption (“BACC”) and Sustainability Affairs functions were concerned about the use of proceeds from the original EMATUM transaction and noted “too many significant disparities” between the value of equipment received and the invoices for that equipment. BACC conditioned approval of the Exchange on completing a reconciliation of the gaps concerning the use of proceeds and “whether there is a duty to disclose any of the findings to the noteholders.” Credit Suisse, however, failed to conduct the reconciliation process outlined in the email.

50. A reputable auditing firm had conducted an audit of EMATUM and called attention to the “loss of over half of the share capital” of the company. In January 2016, the bank also retained an outside appraiser to conduct a valuation of the boats purchased from the proceeds of the EMATUM financing. In February 11, 2016 email, a Credit Suisse director (the “Valuation Director”) responsible for the valuation, reported to management that the valuation “[r]esults have not been satisfactory.” The appraisal revealed that, out of the total \$500 million in equipment funded by Credit Suisse, only \$336-\$480 million in boats and related equipment had been delivered while the rest was unaccounted for. As reflected in a July 2015 email, the bank also understood that funds from EMATUM were used to procure patrol vessels rather than fishing vessels, as had been part of the original project plan. The appraisal also opined that the vessels were generally well constructed and suited to the project and should be able to “earn their keep” if and when properly deployed.

51. On calls, Banker 3 discussed with the Valuation Director that “this one is going to be ugly,” and “I know you don’t have a choice, but I really wish we didn’t have this valuation,” to which the Valuation Director responded that “we need to make sure we keep the facilities paid.” Days before receiving the valuation the Valuation Director told Banker 3 that he thought “BACC are going to close us down. I think they will prevent us from doing the bond.” Banker 3 acknowledged that “if we shut down the bond it will impact ProIndicus as well.”

52. Credit Suisse personnel identified a “significant shortfall” of between \$265 and \$408 million in the proceeds of the original transaction and the value of the boats and equipment received. By a February 19, 2016 email, the Valuation Director forwarded to senior employees, including Banker 3, a spreadsheet that showed a difference of at least \$265.4 million from the EMATUM proceeds and a high-end estimate value of the boats and equipment received (\$435 million), and fees and interest payments made (\$149.6 million) under the \$850 million EMATUM LPN facility.

53. A March 8, 2016 memorandum prepared in connection with the approval of the Exchange Offer for the Credit Suisse Global Investment Banking Committee noted as risk factors that “EMATUM may have been overcharged” for the boats and other equipment received in connection with the original EMATUM financing and that the “funds were disbursed directly to the Contractor.”

### **Debt Levels and Risk of Default**

54. Credit Suisse knew or should have known that the debt disclosures provided by Mozambique and its counsel, which were included in the offering materials, failed to properly disclose Mozambique’s total debt levels. Mozambique’s total debt was a material disclosure item because it determined the government’s risk of default and creditworthiness in connection with the Exchange Offer. The credit risk memorandum prepared in connection with the prior EMATUM LPN offering, however, stated that the EMATUM debt, as with the ProIndicus debt, “will not be included in the government’s debt outstanding and will not be reflected in the state budget.” In following this approach, the disclosures in the offering materials for the Exchange Offer on Mozambique’s level of indebtedness were misleading and omitted the amounts arising from the ProIndicus transaction and the \$535 million MAM transaction that Credit Suisse had discovered by August 2015, and which had not been disclosed to the Mozambique parliament and IMF. Instead, the disclosures in the offering documents prepared by Credit Suisse merely included a series of debt tables, which did not properly disclose the true nature of Mozambique’s debt and significant risk of default.

55. At an early stage in the debt disclosure process, the deal team working on the Exchange Offer understood that Mozambique and Banker 1, who was now employed by the Intermediary Related Entity retained by Mozambique, had “reluctance... to disclose ProIndicus & MAM loans in the prospectus” and the “sensitivity” to public disclosure of the MAM transaction, which was “private & unlikely to be disclosed in detail.” In a phone conversation with Banker 3, the Valuation Director stated that “one of the key issues is that in the prospectus of the bond, they are required to make complete disclosure of what they have, and obviously they have two facilities, one is ProIndicus and one is MAM, which is 540 million, which they don’t want to disclose.” As a result, Credit Suisse failed to name the ProIndicus or MAM deals in the offering materials.

56. The Credit Suisse deal team, on several occasions, discussed Mozambique’s desire to avoid transparency and not disclose the ProIndicus and MAM debt in the debt disclosures. In a February 28, 2016 email, for example, Credit Suisse discussed with VTB that it is “not good tactics to show direct and ppg [guaranteed debt] figures side by side as it will call attention to the fairly large gap ie size of gtees [guarantees].” The email goes on to state that investors can compare these figures up against public reports “but we shouldn’t make it glaringly easy for them.” The side by side display would have called into question the size of the guaranteed debt, including the ProIndicus and MAM amounts.

57. The Credit Suisse deal team also understood that the debt figures provided by Mozambique could not be reconciled against their due diligence, concluding that they were “misleading” and contained “inconsistencies,” and that the public numbers in the prospectus “still have mistakes.” The bank also discussed concerns of a “renewed rush” and “unrealistic timing” pressures that Banker 1, on behalf of Mozambique, had imposed in connection with the bank’s due diligence on making the debt disclosures.

58. Despite risks and red flags presented, the bank unreasonably accepted Mozambique’s contention that the debt figures in the January 2016 IMF country report were accurate and inclusive of all guarantees, and the final disclosure materials did not need to include an itemized list of the prior non-public debts. Credit Suisse accepted the debt as presented by Mozambique and its counsel. As reflected in a February 12, 2016 email, a Credit Suisse deal team member informed his team that Mozambique’s “issuer team” represented that “the debt figures used in IMF reports is inclusive of all guaranteed debt” and reasoned that “[g]iven that the gross figures are all inclusive, there will be no itemized disclosure on the guarantees.” The representation was provided by the-then Minister of Finance in a letter to Credit Suisse.

59. Credit Suisse, however, knew or should have known that the debt figures used in the IMF country report did not include ProIndicus or MAM, based on: (1) the fact that neither transaction, unlike EMATUM, was referenced in any of the IMF’s country reports; (2) the bank internally noted that “letter still doesn’t match the IMF report;” (3) bank personnel repeatedly discussed the need to keep the ProIndicus transaction “private” and undisclosed; and (4) had the ProIndicus and MAM deals been disclosed to the IMF, Mozambique might have been forced by the IMF to include the indebtedness as a line item on the country’s budget (as it did when it discovered the EMATUM transaction).

### **Discovery of the True Level of Indebtedness and Mozambique’s Default on the Bond**

60. On April 3, 2016, after press reports regarding the existence of other guaranteed debt, the government of Mozambique disclosed the existence of the ProIndicus and MAM Loans. On April 23, 2016, the IMF announced that Mozambique’s previously undisclosed indebtedness totaled \$1.35 billion, including the \$622 million loan to ProIndicus and the \$535 million loan to MAM

61. In June 2016, the IMF and 14 other donor groups suspended lending and aid packages to Mozambique, and the IMF called for an independent audit of ProIndicus, EMATUM, and MAM. In June 2017, the audit report, conducted by an international auditing firm, concluded that it could not account for \$713 million when comparing the Intermediary invoices and the market price of the boats that were purportedly provided in the ProIndicus and EMATUM transactions. Earlier, in January 2017, when its debt constituted 112% of its GDP, Mozambique announced that it would default on its debt obligations and, since then, has not made any payments on the ProIndicus, EMATUM or MAM debts.

## **Violations and Findings**

62. As a result of the conduct described above as it relates to the EMATUM LPN offering, the Commission finds that Credit Suisse violated Section 10(b) of the Exchange Act, and Rule 10b-5 thereunder which prohibits any person, directly or indirectly, by the use of any means or instrumentality of interstate commerce, or of the mails or of any facility of any national securities exchange, in connection with the purchase or sale of any security (a) to employ any device, scheme, or artifice to defraud, (b) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, or (c) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

63. As a result of the conduct described above as it relates to the EMATUM LPN offering, the Commission finds that Credit Suisse violated Section 17(a)(1) of the Securities Act, which proscribes, in the offer or sale of any security, the employment “of any device, scheme, or artifice to defraud.”

64. As a result of the conduct described above as it relates to the EMATUM LPN and Exchange Offer, the Commission finds that Credit Suisse violated Section 17(a)(2) of the Securities Act, which proscribes, in the offer or sale of any security, obtaining “money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.” Credit Suisse also violated Section 17(a)(3) of the Securities Act, which proscribes, in the offer or sale of any security, engaging “in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.”

65. As a result of the conduct described above, the Commission finds that Credit Suisse violated Section 13(b)(2)(A) of the Exchange Act, which requires issuers that have a class of securities registered pursuant to Section 12 of the Exchange Act and issuers with reporting obligations pursuant to Section 15(d) of the Exchange Act to make and keep books, records, and accounts which, in reasonable detail, accurately and fairly reflect their transactions and disposition of their assets.

66. As a result of the conduct described above, the Commission finds that Credit Suisse violated Section 13(b)(2)(B) of the Exchange Act, which requires issuers that have a class of securities registered pursuant to Section 12 of the Exchange Act and issuers with reporting obligations pursuant to Section 15(d) of the Exchange Act to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that (i) transactions are executed in accordance with management’s general or specific authorization; (ii) transactions are recorded as necessary (I) to permit preparation of financial statements in conformity with generally accepted accounting principles or any other criteria applicable to such statements, and (II) to maintain accountability for assets; (iii) access to assets is permitted only in accordance with management’s general or specific authorization; and (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

### **Disgorgement and Civil Penalties**

67. The disgorgement and prejudgment interest ordered in paragraph IV.B is consistent with equitable principles and does not exceed Respondent's net profits from its violations and will be distributed to harmed investors, if feasible through a Fair Fund. The Commission will hold funds paid pursuant to paragraph IV.B in an account at the United States Treasury pending a decision whether the Commission in its discretion will seek to distribute funds. If a distribution is determined feasible and the Commission makes a distribution, upon approval of the distribution final accounting by the Commission, any amounts remaining that are infeasible to return to investors, and any amounts returned to the Commission in the future that are infeasible to return to investors, may be transferred to the general fund of the U.S. Treasury, subject to Section 21F(g)(3) of the Exchange Act.

68. In determining to accept the Offer, the Commission considered Credit Suisse's substantial remedial efforts. Credit Suisse has engaged in a review and remediation of its internal controls and procedures relating to the integration of its compliance functions. This includes the establishment of a U.K. Financial Crime Advisory team to conduct due diligence from a financial crimes perspective, and the establishment of a Global Focus Client Committee to assess client risks from a compliance perspective. Credit Suisse also proactively worked with peer banks, civil society organizations, and various international organizations on the design and establishment of a transparent lending portal program, as endorsed by the G7.

#### **IV.**

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondent Credit Suisse's Offer.

Accordingly, it is hereby ORDERED that:

- A. Pursuant to Section 8A of the Securities Act and 21C of the Exchange Act, Respondent cease and desist from committing or causing any violations and any future violations of Sections 10(b) and 13(b) of the Exchange Act and Rule 10b-5 thereunder, and Sections 17(a) of the Securities Act.
- B. Respondent shall, within 10 days of the entry of this Order, pay disgorgement of \$26,229,233 and prejudgment interest of \$7,822,639 to the Securities and Exchange Commission. The Commission will hold funds paid pursuant to this paragraph in an account at the United States Treasury pending a decision whether the Commission, in its discretion, will seek to distribute funds or, transfer them to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). If timely payment is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600.
- C. Respondent shall, within 10 days of the entry of this Order, pay a civil money penalty in the amount of \$65,000,000 to the Securities and Exchange Commission. The Commission may

distribute civil penalties collected in this proceeding if, in its discretion, the Commission orders the establishment of a Fair Fund pursuant to 15 U.S.C. § 7246, Section 308(a) of the Sarbanes-Oxley Act of 2002. The Commission will hold funds paid pursuant to this paragraph in an account at the United States Treasury pending a decision whether the Commission, in its discretion, will seek to distribute funds or, subject to Exchange Act Section 21F(g)(3), transfer them to the general fund of the United States Treasury. If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. §3717. Payment must be made in one of the following ways:

- (1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
- (3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center  
Accounts Receivable Branch  
HQ Bldg., Room 181, AMZ-341  
6500 South MacArthur Boulevard  
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Credit Suisse Group AG as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Anita B. Bandy, Associate Director, Division of Enforcement, Securities and Exchange Commission, 100 F St., NE, Washington, DC 20549-6561.

Regardless of whether the Commission in its discretion orders the creation of a Fair Fund for the penalties ordered in this proceeding, amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondent agrees that in any Related Investor Action, it shall not argue that it is entitled to, nor shall it benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondent agrees that it shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Respondent by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

By the Commission.

Vanessa A. Countryman  
Secretary