

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 68298 / November 27, 2012

ADMINISTRATIVE PROCEEDING
File No. 3-15108

In the Matter of

**EDELWEISS FINANCIAL
SERVICES LIMITED**

Respondent.

**ORDER INSTITUTING ADMINISTRATIVE
PROCEEDINGS PURSUANT TO SECTION
15(b) OF THE SECURITIES EXCHANGE
ACT OF 1934, MAKING FINDINGS, AND
IMPOSING REMEDIAL SANCTIONS AND A
CENSURE**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted pursuant to Section 15(b) of the Securities Exchange Act of 1934 (“Exchange Act”) against Edelweiss Financial Services Limited (“Respondent” or “Edelweiss”).

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, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over it and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Administrative Proceedings Pursuant to Section 15(b) of the Securities Exchange Act of 1934, Making Findings, and Imposing Remedial Sanctions and a Censure (“Order”), as set forth below.

III.

On the basis of this Order and Respondent's Offer, the Commission finds that:

A. SUMMARY

These proceedings arise out of Edelweiss's solicitation and provision of brokerage services from at least 2007 until July 2011 to U.S. institutional investors without registering as a broker-dealer as required by Section 15(a) of the Exchange Act. Edelweiss also failed to meet the conditions for an exemption from registration for foreign broker-dealers provided by Rule 15a-6 under the Exchange Act.

B. RESPONDENT

Edelweiss Financial Services Limited, formerly known as Edelweiss Capital Limited, is a financial services holding company based in Mumbai, India. Edelweiss Financial Services Limited and certain of its subsidiaries (collectively, "Edelweiss") are registered with the Securities and Exchange Board of India as broker-dealers licensed to carry on various broking activities within India, including the activities described in this Order.

C. FACTS

From at least 2007 until July 2011, using U.S. jurisdictional means, Edelweiss solicited and provided brokerage services to U.S. investors.

As part of its cross-border activity with U.S. investors, Edelweiss bought and sold securities of Indian issuers on Indian stock exchanges on behalf of U.S. investors. During the relevant period, Edelweiss received transaction-based compensation in the amount of approximately \$9.4 million as a result of these transactions.

Edelweiss also participated as a lead or co-lead manager in the initial public offering or further public offering of seven Indian issuers in which shares were sold and/or marketed to U.S. investors. As part of its efforts to solicit U.S. investors for these offerings, Edelweiss employees contacted U.S. investors and potential investors via electronic mail and telephone calls and traveled with and brought to the United States representatives of these Indian issuers to meet with U.S. investors and potential investors. For this activity, Edelweiss received approximately \$3.1 million in total transaction-based compensation based upon a percentage of the value of the offerings, a portion of which is attributable to U.S. investors.

In addition, Edelweiss participated in four private placements of securities structured as "Qualified Institutional Placements" under Indian law that were marketed to U.S. investors and in which certain U.S. investors invested.

Further, Edelweiss marketed to and solicited U.S. investors for 5 alternative asset funds, although these efforts did not result in any investments.

The brokerage services that Edelweiss provided required registration as a broker-dealer with the Commission pursuant to Section 15(a) of the Exchange Act. However, Edelweiss was not registered with the Commission as a broker-dealer. As an alternative to registration, Edelweiss could have provided these brokerage services in reliance on the exemption from registration provided to foreign broker-dealers by Rule 15a-6 under the Exchange Act. However, Edelweiss did not enter into a chaperoning agreement with a U.S. registered broker-dealer, which provides a means to qualify for the Rule 15a-6 exemption.

After being contacted by staff of the Commission, Edelweiss promptly undertook corrective action, including by immediately ceasing all cross-border U.S. business. In addition, Edelweiss has subsequently entered into a Rule 15a-6 chaperoning agreement with a U.S. registered broker-dealer pursuant to which it engages in certain U.S. cross-border business in reliance on Rule 15a-6.

D. VIOLATIONS

Absent an applicable exception or exemption, Section 15(a) of the Exchange Act generally prohibits a broker or dealer from making use of the mails or any means or instrumentality of interstate commerce to effect any transactions in, or to induce or attempt to induce the purchase or sale of any security without being registered with the Commission as a broker-dealer.

Section 3(a)(4) of the Exchange Act defines a “broker” as any person (other than a person meeting the conditions of an exception, exemption or safe harbor, such as an associated person of an issuer meeting the conditions of Rule 3a4-1 under the Exchange Act or a bank meeting the conditions of Regulation R) “engaged in the business of effecting transactions in securities for the accounts of others.” Edelweiss acted as a broker within this definition.

Rule 15a-6 under the Exchange Act provides conditional exemptions under which unregistered foreign broker-dealers may effect transactions with or for U.S. institutional investors and major institutional investors in certain limited circumstances. Edelweiss acted as a broker outside the conditions of Rule 15a-6, and its solicitation of and provision of brokerage services to U.S. investors required broker-dealer registration. Inducing or attempting to induce securities transactions constitutes solicitation requiring broker-dealer registration. Solicitation is construed broadly to include both efforts to induce a single transaction and efforts to develop an ongoing securities business relationship.¹

¹ See *Registration Requirements for Foreign Broker-Dealers*, Exchange Act Release No. 27017 (July 11, 1989), 54 FR 30013, 30017-18 (July 18, 1989) (In the context of the Exchange Act’s broker-dealer registration requirement, solicitation includes “any affirmative effort by a broker or dealer intended to induce transactional business for the broker-dealer or its affiliates,” including “efforts to induce a single transaction or to develop an ongoing securities business relationship,” and examples of conduct considered solicitation include “telephone calls

Accordingly, as a result of conduct described above, Edelweiss willfully² violated Section 15(a) of the Exchange Act.

E. EDELWEISS'S REMEDIAL EFFORTS

In determining to accept the Offer, the Commission considered remedial acts promptly undertaken by Respondent and cooperation afforded the Commission staff.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondent Edelweiss's Offer.

Accordingly, pursuant to Section 15(b) of the Exchange Act, it is hereby ORDERED that:

A. Respondent Edelweiss is censured; and

B. Respondent Edelweiss shall, within 30 days of the entry of this Order, pay disgorgement of \$540,000 and prejudgment interest of \$28,347 to the United States Treasury. If timely payment is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600. Payment shall be: (A) made by wire transfer, United States postal money order, certified check, bank cashier's check or bank money order; (B) made payable to the Securities and Exchange Commission; (C) if paid by money order or check, such payment shall be hand-delivered or overnight mailed to Enterprise Services Center, HQ Bldg, Room 181, AMZ-341, 6500 South MacArthur Blvd, Oklahoma City, OK 73169; and (D) submitted under cover letter that identifies Edelweiss as a Respondent in these proceedings, the file number of these proceedings, a copy of which cover letter and money order or check shall be sent to Laura B. Josephs, Division of Enforcement, Securities and Exchange Commission, 100 F St., NE, Washington, DC 20549-5010A.

C. Respondent acknowledges that the Commission is not imposing a civil penalty based upon its cooperation in a Commission investigation and/or related enforcement action. If at any time following the entry of the Order, the Division of Enforcement ("Division") obtains information indicating that Respondent knowingly provided materially false or misleading information or materials to the Commission or in a related proceeding, the Division may, at its sole

from a broker-dealer to a customer encouraging use of the broker-dealer to effect transactions," "conducting investment seminars for U.S. investors, whether or not the seminars are hosted by a registered U.S. broker-dealer," and "recommending the purchase or sale of particular securities, with the anticipation that the customer will execute the recommended trade through the broker-dealer.")

² A willful violation of the securities laws means merely "that the person charged with the duty knows what he is doing." *Wonsover v. SEC*, 205 F.3d 408, 414 (D.C. Cir. 2000) (quoting *Hughes v. SEC*, 174 F.2d 969, 977 (D.C. Cir. 1949)). There is no requirement that the actor "also be aware that he is violating one of the Rules or Acts." *Id.* (quoting *Gearhart & Otis, Inc. v. SEC*, 348 F.2d 798, 803 (D.C. Cir. 1965)).

discretion and without prior notice to the Respondent, petition the Commission to reopen this matter and seek an order directing that the Respondent pay a civil money penalty. Respondent may not, by way of defense to any resulting administrative proceeding: (1) contest the findings in the Order; or (2) assert any defense to liability or remedy, including, but not limited to, any statute of limitations defense.

By the Commission.

Elizabeth M. Murphy
Secretary