

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 10469 / March 12, 2018

ADMINISTRATIVE PROCEEDING
File No. 3-18398

In the Matter of

Credit Karma, Inc.,

Respondent.

**ORDER INSTITUTING CEASE-AND-DESIST
PROCEEDINGS PURSUANT TO SECTION
8A OF THE SECURITIES ACT OF 1933,
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”) against Credit Karma, Inc. (“Respondent,” “Credit Karma,” or the “Company”).

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 Respondent and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Cease-and-Desist Proceedings, Pursuant to Section 8A of the Securities Act of 1933, 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 finds¹ that:

¹ The findings herein are made pursuant to Respondent’s Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

Summary

Credit Karma is a pre-IPO internet-based financial technology company headquartered in San Francisco, California. From October 2014 to September 2015, Credit Karma issued approximately \$13.8 million in stock options to its employees without registering the offering and without a valid exemption from registration. Credit Karma sought to rely on Rule 701 promulgated under the Securities Act to exempt its offering from registration. Credit Karma, however, failed to comply with the disclosure requirements of Rule 701, even though senior executives were aware of Rule 701, which required Credit Karma to provide financial statements and risk disclosures a reasonable time prior to the date of exercise of any stock options. From August 2015 through June 2016, employees of Credit Karma exercised their employee stock options and bought stock in the unregistered offering, even though they were not given the required disclosure information. Accordingly, without a valid exemption, Credit Karma violated the registration provisions of the Securities Act.

Respondent

1. Credit Karma, Inc. is a Delaware corporation formed in 2007 and headquartered in San Francisco, California. Credit Karma is an internet-based financial technology company (commonly referred to as a “fintech” company) that provides resources and information to consumers regarding their financial health, including among other things, providing consumers their credit scores. The Company is privately held.

Legal Background

2. Under Section 5 of the Securities Act, a company cannot offer or sell securities to the public without first registering the offering with the Commission or having a valid exemption from registration. Registration ensures that potential investors will have detailed information about the issuer’s finances and business, and allows the Commission to review the company’s disclosures.

3. Rule 701 promulgated under the Securities Act provides an exemption from registration for certain issuers offering and selling securities to employees, and other specified categories of individuals, under compensatory benefit plans. However, Rule 701(e) requires that any company issuing more than \$5 million in securities over a twelve-month period provide, in a reasonable period of time before the date of the sale, detailed financial statements and risk disclosures to the recipients of the securities issued. The Rule allows privately-held companies to compensate their employees with securities without incurring the obligations of public registration and reporting, while ensuring that essential information about the investment is provided to employees.

Credit Karma Failed to Comply with Rule 701

4. Since 2011, Credit Karma has provided equity grants in the form of stock options to its employees as a form of compensation. Under Credit Karma’s stock plans and subsequent Equity Incentive Plan, its Board of Directors or the Board’s authorized delegate granted the

Company's stock options. The option grants, upon vesting, gave the employees the right to buy a certain number of Credit Karma's unrestricted shares at an exercise price set by Credit Karma's Board.

5. For Rule 701 purposes, Credit Karma calculated the amount of its securities grants based on a twelve-month offering period beginning October 1 and ending September 30. From October 1, 2014, through September 30, 2015, Credit Karma issued approximately \$13.8 million in stock options to its employees (the "unregistered offering"). The unregistered offering exceeded the \$5 million threshold of Rule 701(e) and, thus, required Credit Karma to deliver financial statements and risk disclosures associated with the securities to employees in a reasonable period of time before the employees paid to exercise their options.

6. As early as April of 2015, certain Credit Karma executives were aware of Rule 701. At least by August 2015, Credit Karma's senior executives were also aware of, and discussed, Rule 701. An executive also included a reference to Rule 701 in a presentation to the Board in August 2015. For the next eleven months after August 2015, Credit Karma continued to grant employees stock options and allowed them to exercise their vested stock options granted in the unregistered offering. Although Credit Karma periodically provided certain limited financial information to its employees, it failed to deliver to the employees the complete financial information and disclosures required by Rule 701.

7. From August 27, 2015, through July 18, 2016, Credit Karma employees paid the Company \$550,535 to exercise 192,293 options granted in the unregistered offering, without receiving Credit Karma's risks disclosures or detailed financial information. During that time, Credit Karma had a set of financial and disclosure information available. Specifically, although Credit Karma's financial statements were not publicly available, it had given potential institutional investors access in the summer of 2015 to a virtual data room that contained certain audited and unaudited financial statements, as well as risk disclosure documents, such as material agreements and information regarding intellectual property, securities issuances, and disputes and litigation. Credit Karma did not, however, provide the same information to its own employees because it viewed the Company's financial information as highly confidential and proprietary.

8. On July 6, 2016, Credit Karma received the Commission staff's inquiry seeking information and documents regarding its Rule 701 disclosures. On July 19, 2016, Credit Karma provided disclosure packets to employees, which included detailed financial statements and risk disclosures required under Rule 701.

Violations

9. Section 5(a) of the Securities Act prohibits the use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell a security unless a registration statement is in effect as to such security. Section 5(c) of the Securities Act prohibits the use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or offer to buy a security unless a registration statement has been filed as to such security.

10. Credit Karma offered to sell and sold its securities without a registration statement filed or in effect and without a valid exemption from registration. As a result of the conduct described above, Credit Karma violated Section 5(a) and 5(c) of the Securities Act.

Credit Karma's Remedial Efforts

11. In determining to accept Credit Karma's offer of settlement, 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 to impose the sanctions agreed to in Respondent Credit Karma's Offer.

A. Accordingly, pursuant Section 8A of the Securities Act, it is hereby ORDERED that Respondent Credit Karma cease and desist from committing or causing any violations and any future violations of Section 5(a) and 5(c) of the Securities Act.

B. Respondent Credit Karma shall, within 15 days of the entry of this Order, pay a civil money penalty in the amount of \$160,000 to the Securities and Exchange Commission for transfer 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 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 Karma, Inc. as the 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 Erin Schneider, Division of Enforcement, Securities and Exchange Commission, 44 Montgomery Street, Suite 2800, San Francisco, CA 94104.

C. 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.

D. Respondent acknowledges that the Commission is not imposing a civil penalty in excess of \$160,000 based upon its cooperation in a Commission investigation. 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 discretion and with prior notice to the Respondent, petition the Commission to reopen this matter and seek an order directing that the Respondent pay an additional civil penalty. Respondent may contest by way of defense in any resulting administrative proceeding whether it knowingly provided materially false or misleading information, but may not: (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.

Brent J. Fields
Secretary