

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 82595 / January 29, 2018

ADMINISTRATIVE PROCEEDING
File No. 3-17899

In the Matter of

CREDIT SUISSE SECURITIES (USA)
LLC

Respondent.

ORDER APPOINTING FUND
ADMINISTRATOR AND SETTING
ADMINISTRATOR BOND AMOUNT

ADMINISTRATIVE PROCEEDING
File No. 3-17900

In the Matter of

SANFORD MICHAEL KATZ

Respondent.

On April 4, 2017, the Commission issued an Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Section 15(b) of the Securities Exchange Act of 1934 and Sections 203(e) and 203(k) of the Investment Advisers Act of 1940, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order (“Order”)¹ against Credit Suisse Securities (USA) LLC (“Credit Suisse”). Simultaneously therewith, the Commission brought a related administrative action against Sanford Michael Katz (“Katz”),² for his actions related to the misconduct described in the Order while acting as an investment adviser representative of Credit Suisse.

¹ Exchange Act Rel. No. 80373 (Apr. 4, 2017).

² See Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Section 15(b) of the Securities Exchange Act of 1934 and Sections 203(f) and 203(k) of the Investment Advisers Act of 1940, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order, Adviser Act Rel. No. 4679 (Apr. 4, 2017).

The Commission found that, from January 1, 2009 and January 21, 2014, Katz purchased or held Class A mutual fund shares for advisory clients who were eligible to purchase or hold less expensive institutional share classes of the same mutual funds. A significant difference between Class A shares and institutional share classes is the existence of marketing and distribution fees imposed on Class A shareholders pursuant to Section 12(b) of the Investment Company Act and Rule 12b-1 thereunder (“12b-1 fees”), typically 25 basis points per year for Class A shares. The 12b-1 fees are paid out of the assets of the fund as a portion of its expense ratio. In this case, the 12b-1 fees were passed through to Credit Suisse, which in turn paid a portion of that amount to its investment adviser representatives, also referred to as Relationship Managers (“RMs”), including Katz. Thus, 12b-1 fees decreased the value of advisory clients’ investments in mutual funds and increased the compensation paid to Credit Suisse and its RMs. During the relevant period, Katz’s practice of putting advisory clients in Class A shares when those clients were eligible for less expensive institutional share classes resulted in Credit Suisse collecting approximately \$2.5 million in 12b-1 fees, approximately \$1.1 million of which was paid to Katz. This practice was inconsistent with Katz’s fiduciary duty, his representations to clients, and his obligation to obtain best execution for his advisory clients. Credit Suisse’s disclosures did not adequately inform its advisory clients of the conflict of interest presented by its RMs’ share class selection practices or update or enhance its policies or procedures to address this issue.

The Commission ordered Credit Suisse to pay disgorgement of \$2,099,624.12, prejudgment interest of \$380,090.37, and a civil money penalty of \$3,275,000.00; and ordered Katz to pay disgorgement of \$1,124,858.89, prejudgment interest of \$197,587.38, and a civil money penalty of \$850,000.00.

The Order also created a Fair Fund, pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, as amended, for the funds received pursuant to the Order, as well as all funds collected from Katz in the related administrative proceeding, *Sanford Michael Katz*, Admin. Proc. File No. 3-17900 (the “Fair Fund”). Credit Suisse and Katz have paid as ordered, for a total of \$7,927,160.76 in the Fair Fund for distribution to harmed investors.

The Division of Enforcement now seeks the appointment of Boston Financial Data Services, Inc. (“Boston Financial”) as the fund administrator in the above-captioned proceedings and requests that the administrator’s bond be set at \$7,927,160.76, as required by Rules 1105(a) and 1105(c) of the Commission’s Rules on Fair Fund and Disgorgement Plans (“Rules”).³ Boston Financial is included in the Commission’s approved pool of administrators.

³ 17 C.F.R. §§ 201.1105(a) and 201.1105(c).

Accordingly, it is hereby ORDERED, that Boston Financial is appointed as the fund administrator in the above-referenced proceedings, pursuant to Rule 1105(a) of the Rules, 17 C.F.R. § 201.1105(a), and the administrator shall obtain a bond in the amount of \$7,927,160.76, in accordance with Rule 1105(c) of the Rules, 17 C.F.R. § 201.1105(c).

For the Commission, by the Division of Enforcement, pursuant to delegated authority.⁴

Brent J. Fields
Secretary

⁴ 17 C.F.R. § 200.30-4(a)(17).