

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

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 83999 / August 30, 2018**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-17899**

**In the Matter of**

**CREDIT SUISSE SECURITIES (USA)**  
**LLC**

**Respondent.**

**ORDER APPROVING**  
**PLAN OF DISTRIBUTION**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-17900**

**In the Matter of**

**SANFORD MICHAEL KATZ**

**Respondent.**

On April 4, 2017, the Commission instituted and simultaneously settled administrative and cease-and-desist proceedings against Credit Suisse Securities (USA) LLC (“Credit Suisse”), a dually registered broker-dealer and investment adviser, for breaches of its fiduciary duty, inadequate disclosures, and deficiencies in compliance policies and procedures.<sup>1</sup> Contemporaneously therewith, in a related action, the Commission instituted and settled administrative and cease-and-desist proceedings against Sanford Michael Katz, (“Katz”), a registered representative and investment adviser of Credit Suisse.<sup>2</sup>

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<sup>1</sup> See 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, Exchange Act Rel. No. 80373 (Apr. 4, 2017) (the “Credit Suisse Order”).

<sup>2</sup> 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, Advisers Act Rel. No. 4679 (Apr. 4, 2017) (the “Katz Order”).

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 of 1940 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 \$3.2 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.

In their respective orders, 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 Credit Suisse 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 it, as well as all funds collected from Katz, pursuant to the Katz Order (the “Fair Fund”). Credit Suisse and Katz have paid as ordered, a total of \$7,927,160.76 into the Fair Fund.

On July 12, 2018 the Commission published a Notice of Proposed Plan of Distribution and Opportunity for Comment (“Notice”)<sup>3</sup> pursuant to Rule 1103 of the Commission’s Rules on Fair Fund and Disgorgement Plans.<sup>4</sup> The Notice advised interested parties that they could obtain a copy of the proposed Plan of Distribution (“Plan”) from the Commission’s public website at <http://www.sec.gov/litigation/fairfundlist.htm> or by submitting a written request to Nancy Chase Burton, Esq., United States Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-5876.

The Notice also advised that all persons desiring to comment on the Plan could submit their comments, in writing, no later than thirty (30) days from the publication of the Notice (1) to the Office of the Secretary, United States Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090; (2) by using the Commission’s Internet comment form (<http://www.sec.gov/litigation/fairfundlist.htm>); or (3) by sending an e-mail to

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<sup>3</sup> Exchange Act Rel. No. 83621 (July 12, 2018).

<sup>4</sup> 17 C.F.R. § 201.1103.

[rulecomments@sec.gov](mailto:rulecomments@sec.gov). The Commission received no comments on the Plan during the comment period.

The Net Fair Fund<sup>5</sup> is comprised of the Fair Fund, plus accumulated interest and earnings thereon, less prejudgment interest, and any reserve for taxes, fees or other expenses of administering the Plan. The Plan provides for distribution of the Net Fair Fund to those harmed investors previously identified by Commission staff in accordance with paragraph 8 of the Plan.

The Division of Enforcement now requests that the Commission approve the Plan.

Accordingly, it is hereby ORDERED, pursuant to Rule 1104 of the Commission's Rules on Fair Fund and Disgorgement Plans,<sup>6</sup> that the Plan is approved, and posted simultaneously with this order on the Commission's website at [www.sec.gov](http://www.sec.gov).

For the Commission, by its Secretary, pursuant to delegated authority.

Brent J. Fields  
Secretary

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<sup>5</sup> Capitalized terms used herein, but not defined shall have the same meanings ascribed to them in the Plan.

<sup>6</sup> 17 C.F.R. § 201.1104.