

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 79997 / February 9, 2017

ADMINISTRATIVE PROCEEDING
File No. 3-14594

In the Matter of

**Credit Suisse Alternative Capital, LLC
(f/k/a Credit Suisse Alternative
Capital, Inc.), Credit Suisse Asset
Management, LLC, and Samir H.
Bhatt**

Respondents.

**ORDER APPROVING PLAN OF
DISTRIBUTION AND DIRECTING
DISBURSEMENT OF FAIR FUND**

On October 19, 2011, the Commission issued an Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933 and Sections 203(e), 203(f), and 203(k) of the Investment Advisers Act of 1940, Making Findings, and Imposing Remedial Sanctions and Cease-and Desist Orders (“Order”)¹ against Credit Suisse Alternative Capital, LLC (f/k/a Credit Suisse Alternative Capital, Inc.) (“CSAC”), Credit Suisse Asset Management, LLC (“CSAM”), and Samir H. Bhatt (“Bhatt”) (collectively, “Respondents”).

As set forth in the Order, CSAC, a registered investment adviser, and Bhatt, the portfolio manager at CSAC, prepared the marketing materials for a largely synthetic collateralized debt obligation known as Class V III that was structured and marketed by Citigroup Global Markets Inc. The marketing materials contained misrepresentations and omissions that defrauded investors. The Order held CSAC and CSAM jointly and severally liable for a total of \$2,500,000

¹ Securities Act Rel. No. 9268 (Oct. 19, 2011).

in disgorgement, prejudgment interest, and a civil money penalty, and Bhatt liable for a \$50,000 civil money penalty. The Respondents made the payments as required by the Order, totaling \$2.55 million. The Order also created a fair fund pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, as amended, for the funds paid by the Respondents (“CSAC Fair Fund”).

On August 24, 2016, the Secretary, pursuant to delegated authority, issued a Notice of Proposed Plan of Distribution and Opportunity for Comment.² The Proposed Plan of Distribution (“Plan”) provides for the CSAC Fair Fund to be transferred to *SEC v. Citigroup Global Markets Inc.*, 11-cv-7387 (S.D.N.Y.) (“CGMI Action”), for distribution to harmed investors pursuant to a plan of distribution to be approved by the court in the CGMI Action. As explained in the Plan, the securities violations alleged in both cases, the time period of the violations, and the investors harmed by both frauds are the same or substantially the same. As a result, the CGMI Action complaint alleges “violations arising from the same or substantially the same . . . facts as those alleged in the Commission’s order instituting proceedings,” the criteria for transfer in Rule 1102(a) of the Commission’s Rules on Fair Funds and Disgorgement Plans (“Rules”), 17 C.F.R. § 201.1102(a).³ The Commission received no comments on the Plan.

Consistent with the approach used by district courts when considering whether to approve a distribution plan, the Commission’s objective is to distribute funds in a fair and reasonable manner, taking into account relevant facts and circumstances.⁴ As noted in the Plan, the Division of Enforcement (“Division”) has concluded that combining the CSAC Fair Fund with the funds collected in the CGMI Action is fair and reasonable because it will avoid the additional

² Exchange Act Rel. No. 78659 (Aug. 24, 2016).

³ Rule 1102(a) states in relevant part: “Subject to such conditions as the Commission . . . shall deem appropriate, a plan for the administration of a Fair Fund . . . may provide for payment of funds into a court registry or to a court-appointed receiver in any case pending in federal or state court against a respondent or any other person based upon a complaint alleging violations arising from the same or substantially similar facts as those alleged in the Commission’s order instituting proceedings.” (emphasis added)

⁴ See *Official Committee of Unsecured Creditors of WorldCom, Inc. v. SEC*, 467 F.3d 73, 82 (2d Cir. 2006) (citing *SEC v. Wang*, 944 F.2d 80, 88 (2d Cir. 1991)).

time inherent in implementing two distributions, reduce the duplication of distribution-related costs and expenses, and simplify the process for injured investors that would be required if two distributions were to take place.

The Division now requests that the Commission approve the Plan and authorize the transfer of the CSAC Fair Fund to the court registry account established in the CGMI Action for distribution.

Accordingly, it is hereby ORDERED that:

- A. Pursuant to Rule 1104 of the Rules,⁵ the Plan is approved; and,
- B. Pursuant to Rule 1102(a) of the Rules,⁶ the Commission staff shall disburse the CSAC Fair Fund in the above-captioned proceeding to the court registry account established in the CGMI Action, for distribution to harmed investors in accordance with a plan of distribution to be approved by the court in the CGMI Action.

By the Commission.

Brent J. Fields
Secretary

⁵ 17 C.F.R. § 201.1104.

⁶ 17 C.F.R. § 201.1102(a).