

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

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 96992 / February 27, 2023**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-15098**

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**In the Matter of**

**Credit Suisse Securities USA  
(LLC); DLJ Mortgage Capital,  
Inc.; Credit Suisse First Boston  
Mortgage Acceptance Corp.;  
Credit Suisse First Boston  
Mortgage Securities Corp.; and  
Asset Backed Securities  
Corporation**

**Respondents.**

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**ORDER AUTHORIZING THE TRANSFER  
TO THE U.S. TREASURY OF THE  
REMAINING FUNDS AND ANY FUNDS  
RETURNED TO THE FPD FAIR FUND IN  
THE FUTURE, DISCHARGING THE FUND  
ADMINISTRATOR, CANCELING THE  
ADMINISTRATOR'S BOND, AND  
TERMINATING THE FPD FAIR FUND**

On November 16, 2012, the Commission issued an Order Instituting Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933 and Section 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing a Cease-and-Desist Order (the "Order") against Credit Suisse Securities (USA) LLC; DLJ Mortgage Capital, Inc.; Credit Suisse First Boston Mortgage Acceptance Corp.; Credit Suisse First Boston Mortgage Securities Corp.; and Asset Backed Securities Corporation (collectively, the "Respondents").<sup>1</sup> The Commission found that the Respondents engaged in fraudulent misconduct, including misrepresentations and omissions in the offer or sale of residential mortgage backed securities involving bulk settlement practices ("Bulk Settlement Practice") and first payment defaults practices ("FPD Practice").

The Order provided that, pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, as amended, two separate Fair Funds may be created: One for the funds collected with regards to the Bulk Settlement Practice (\$101,747,769) and one for the funds collected with regards to the FPD Practice (\$18,256,561). In addition, the Order stated that the disgorgement, interest and civil penalties paid to each Fair Fund shall be distributed pursuant to a distribution plan to be administered in accordance with the Commission's Rules of Practice governing Fair Fund and Disgorgement Plans (the "Commission's Rules").<sup>2</sup>

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<sup>1</sup> See Securities Act Rel. No. 9368 (Nov.16, 2012).

<sup>2</sup> 17 C.F.R. § 201.1100, *et seq.*

The Commission appointed Gilardi & Company, LLC (“Gilardi”) as the Fund Administrator on January 14, 2014,<sup>3</sup> and it is administering both distributions. Bond was set at \$101,747,769 and \$18,256,561, respectively, for the Bulk Settlement Practice funds and FPD Practice funds.

On August 14, 2014, pursuant to Rule 1103 of the Commission’s Rules, 17 C.F.R. § 201.1103, the Commission issued a Notice of Proposed Plan of Distribution (First Payment Default Practice) and Opportunity for Comment (“Notice”).<sup>4</sup> The Notice advised interested parties that they could obtain a copy of the proposed Plan of Distribution (“FPD Plan”) from the Commission’s public website or by submitting a written request to Nancy Chase Burton, Esq., United States Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-5631. All persons who desired to comment on the FPD Plan could submit their comments in writing, no later than thirty (30) days from the date of the Notice. One comment was received and given substantial consideration. Subsequently, on September 10, 2015, the Commission issued an order establishing the FPD Fair Fund, which is comprised of \$18,256,561 in disgorgement, prejudgment interest, and civil money penalties paid by Respondents and approved the FPD Plan.<sup>5</sup>

The FPD Plan set forth a methodology for allocating the Net Available Fair Fund, comprised of the FPD Fair Fund, plus accrued interest, less taxes and fees to compensate investors in residential mortgage backed securities trusts harmed by Credit Suisse’s misrepresentations and omissions in its offering materials regarding the FPD Practice and who file approved claims. Any remaining funds are to be transferred to the U.S. Treasury and the FPD Fair Fund terminated, subject to the Commission’s approval of the Fund Administrator’s final accounting.

On September 25, 2017, the Commission ordered \$18,316,278.90 from the FPD Fair Fund to the escrow account established at The Huntington National Bank, and for the Fund Administrator to distribute such monies in accordance with the Bulk Settlement Plan.<sup>6</sup> In accordance with the FPD Plan, the Fund Administrator disbursed \$12,448,913.44, and all checks were successfully cashed.

The FPD Fair Fund earned \$287,075.79 in interest; and paid DC and federal taxes of \$115,365, investment/bank fees of \$5,917.22, and tax administration bond fees and expenses of \$7,943.12. The FPD Fair Fund currently holds \$5,965,498.01, which includes \$287,075.79 in accumulated interest and \$5,678,422.22 represents excess funds not needed to compensate eligible claimants pursuant to the FPD Plan.

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<sup>3</sup> See Order Appointing Fund Plan Administrator and Setting Administrator Bond Amount, Exchange Act Rel. No. 71300 (Jan. 14, 2014). Gilardi was purchased by Computershare Limited in August 2015, and its staff is now a part of Computershare’s business, Kurtzman Carson Consultants LLC (“KCC”). KCC continues to serve as the Fund Administrator for both of the funds.

<sup>4</sup> Exchange Act Rel. No. 72851 (Aug. 14, 2014).

<sup>5</sup> Order Establishing Fair Fund and Approving the Plan of Distribution First Payment Default Practice, Exchange Act Rel. No. 75877 (Sept. 10, 2015).

<sup>6</sup> Exchange Act Rel. No. 81702 (Sept. 25, 2017).

The FPD Plan provides that the FPD Fair Fund is eligible for termination and the Fund Administrator discharged after all of the following have occurred: (a) the final accounting has been submitted by the Fund Administrator for approval, and has been approved by the Commission; (b) all taxes and fees have been paid; and (c) any amount remaining in the FPD Fair Fund has been received by the Commission.

The Commission staff has confirmed that the Fund Administrator has completed the distribution process in accordance with the Commission's orders, that all taxes and fees have been paid, and that all monies remaining in the FPD Fair Fund have been received by the Commission.<sup>7</sup> The final accounting, which was submitted to the Commission for approval, as required by Rule 1105(f) of the Commission's Rules, 17 C.F.R. § 201.1105(f), and as set forth in the FPD Plan, has been approved.

Accordingly, it is ORDERED that:

- A. the remaining funds in the amount of \$5,965,498.01, and any funds returned to the FPD Fair Fund in the future, shall be transferred to the U.S. Treasury, subject to Section 21F(g)(3) of the Securities Exchange Act of 1934 [15 U.S. Code § 78u-6(g)(3)];
- B. the Fund Administrator, Gilardi n/k/a KCC, is discharged
- C. the Fund Administrator's bond is canceled; and
- D. the FPD Fair Fund is terminated.

By the Commission.

Vanessa A. Countryman  
Secretary

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<sup>7</sup> Respondents are responsible to pay all fees and expenses of the Fund Administrator and Tax Administrator pursuant to the Order.