

Employees Retirement System for the City of Providence v. Rohner et al.

COURT: New York Supreme Court, New York County, Commercial Division
CASE LEADERS: Jeroen van Kwawegen, Jeremy P. Robinson, Edward G. Timlin
CASE TEAM: Eric J. Riedel

On April 26, 2022, BLB&G filed a derivative action against Credit Suisse's former directors and officers for breaches of fiduciary duties under Swiss law. The complaint alleges that the Defendants failed to establish and oversee reasonable risk management controls at Credit Suisse, including regarding its NY-based Prime Services business. Defendants' risk management failures caused Credit Suisse to suffer billions of dollars in losses following a string of high-profile hedge fund defaults in 2020 and 2021, including the failures of Malachite Capital Management ("Malachite"), Greensill Capital ("Greensill"), and Archegos Capital Management ("Archegos"). The March 2021 Archegos collapse alone caused CS to suffer over \$5.5 billion in admitted losses as well as extensive harm to the Bank's reputation and good will. Acknowledging that Credit Suisse's broken risk management infrastructure was beyond repair, the Bank shut down its entire Prime Services business in early 2022. This resulted in thousands of lost jobs and significant additional harm to the Company. Defendants face liability based on a simple negligence standard based on substantive Swiss law.

Defendants and their advisors have largely admitted many of the risk failures alleged in this Action. For example, an investigative report dated July 29, 2021, which was commissioned by a Special Committee of Credit Suisse's Board of Directors and authored by Paul Weiss concluded that the Bank's billions in losses were caused by a "fundamental failure" of the risk management systems and controls at the Bank.

U.S. federal regulators have likewise confirmed the risk management failures at the heart of this action. For example, in July 2023, the Federal Reserve issued a Cease-and-Desist Order that it entered into with Credit Suisse and its successor UBS, which also found crippling risk management failures in Credit Suisse's U.S. operations; imposed a fine of over \$268 million; and mandated widespread risk control remedial actions.

On January 30, 2023, the Court issued an order denying Defendants' initial motion to dismiss based on *forum non conveniens* and pleading standards. Defendants appealed that decision to the First Department. The appeal is fully briefed, argument was held on January 17, 2023 and a decision is pending. Defendants also moved to reargue the Court's decision denying the motion to dismiss on pleading grounds. The motion is fully briefed, was argued in July 2023, and a decision is pending. On November 21, 2023, defendants moved to dismiss the case based on standing due to the merger with UBS. The motion is briefed and oral argument is pending. The case is in discovery and BLB&G is vigorously prosecuting this action.

Case Documents

- April 26, 2022 - Verified Shareholder Derivative Complaint