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Registrar

Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date of the filing of the document is determined pursuant to the Court's Rules.

Form 17
Rule 8.05(1)(a)

Third ~~Second~~ Further Amended Statement of Cross-Claim

No. 110 of 2022

Federal Court of Australia

District Registry: New South Wales

Division: Commercial and Corporations

Credit Suisse Virtuoso SICAV-SIF in respect of the sub-fund – Credit Suisse (Lux) Supply Chain Finance Fund

Applicant

Insurance Australia Limited and others named in the Schedule to the Applicant's claim

Respondents

Marsh Limited

Cross-claimant

UBS Asset Management (Europe) S.A.

First Cross-Respondent

UBS Asset Management Switzerland AG

Second Cross-Respondent

UBS Fund Administration Services Luxembourg S.A.

Third Cross-Respondent

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A RELEVANT PARTIES

1. The Cross-Claimant (**Marsh**):

   a. at all material times, was a company that was incorporated under the laws of the United Kingdom; and

   b. is capable of bringing this cross-claim.

2. The First Cross-Respondent:

   a. was formerly known as UBS Fund Management (Luxembourg) S.A.;

   b. is a company that was incorporated under the laws of Luxembourg;

   c. was the entity into which Credit Suisse Fund Management S.A. (**CSFM**) was merged on about 1 October 2024;

   d. succeeded to all of the rights and obligations of CSFM; and

   e. is capable of being sued in these proceedings, with respect to the obligations of CSFM to which it succeeded.

3. CSFM:

   a. was a company that was incorporated under the laws of Luxembourg; and

   b. on a date not presently known to Marsh, was deregistered from the Commercial Register in Luxembourg.

4. The Second Cross-Respondent:

   a. is a company that was incorporated under the laws of Switzerland;

   b. was the entity into which Credit Suisse Asset Management (Schweiz) AG (**CSAM**) was merged on about 30 August 2024;

   c. succeeded to all of the rights and obligations of CSAM; and

   d. is capable of being sued in these proceedings, with respect to the obligations of CSAM to which it succeeded.

5. CSAM:

   a. was a company that was incorporated under the laws of Switzerland; and

   b. was deregistered on about 30 August 2024.

6. At all material times, Credit Suisse Virtuoso SICAV-SIF (the **Virtuoso Parent**):

   a. was a company that was incorporated under the laws of Luxembourg;

   b. was an alternative investment fund (**AIF**);

c. had an umbrella structure; and

d. consisted of one or more sub-funds.

7. Credit Suisse (Lux) Supply Chain Finance Fund (the **Virtuoso Sub-Fund**):

a. was a sub-fund of the Virtuoso Parent;

b. was launched on about 24 April 2017; and

c. was terminated by the Board of Directors of the Virtuoso Parent with effect as of 4 March 2021.

Particulars

Notice to Shareholders entitled "Information to the Shareholders of Credit Suisse (Lux) Supply Chain Finance Fund" dated 5 March 2021.

Credit Suisse Virtuoso SICAV-SIF board minutes of 3 March 2021, item 1 entitled "Termination of Credit Suisse (Lux) Supply Chain Finance Fund (the "Subfund"): see CSA.5000.0008.3243.

7A. The Third Cross-Respondent:

a. is a company that was incorporated under the laws of Luxembourg;

b. was previously known as Credit Suisse Fund Services (Luxembourg) SA (**CSFS**); and

c. [Not used]

d. is capable of being sued in these proceedings.

8. At all material times, Credit Suisse Group AG was the ultimate parent company of a group of companies (**Credit Suisse Group**) which provided worldwide, full-service private banking, investment banking, asset management and financial services.

9. At all material times:

a. CSFM was part of the Credit Suisse Group;

b. CSAM was part of the Credit Suisse Group;

c. the Virtuoso Parent was part of the Credit Suisse Group;

d. the Virtuoso Sub-Fund was part of the Credit Suisse Group; and

e. CSFS was part of the Credit Suisse Group.

10. On about 2 July 2012, Greensill Capital (UK) ~~Pty~~ Ltd (formerly Greensill Capital Management Company (UK) Limited) (**GCUK**) was incorporated.

11. GCUK is a wholly owned subsidiary of Greensill Capital Pty Ltd (**GCPL**).

12. At all material times, GCPL, GCUK and their related entities formed part of a corporate group (**Greensill**), which provided supply chain financing and related services.

13. Alexander (Lex) Greensill was a founder of the Greensill Group.

B THE ESTABLISHMENT OF THE VIRTUOSO SUB-FUND

B1 Some early loans and investments in Greensill

GAM and Mr Solo

14. David Solo:

a. from about 2004 to about 2014, was the CEO of an asset manager known as Global Asset Management (**GAM**);

b. from about 2014 until about 2022, was a senior adviser to Greensill;

c. at all relevant times, was the President of Ratamacue Corporation; ~~and~~

d. from about 2017 until about 2020, was the Managing Director of Systematic Investment Management AG (**SIMAG**), an entity co-launched by CSAM and 40% owned by the Credit Suisse Group; and

e. served as a Board member of SIMAG alongside Mr Michel Degen.

Particulars~~.~~

See written report prepared by Deloitte Tohmatsu Limited dated February 2022 (**Deloitte Report**): UBS.0001.0001.0001 at [6.31.1].

14A. Despite Mr Solo's role with Greensill, during the life of the sub-funds:

a. in some situations, Mr Solo acted in an advisory role to Mr Degen, which created ambiguity and potential conflicts of interest related to his role;

b. these ambiguities and potential conflicts were not considered or sought to be addressed by CSAM (or alternatively, were not adequately considered or sought to be addressed by CSAM); and

c. Mr Degen was not forthcoming about the extent of Mr Solo's involvement with CSAM and the sub-funds

Particulars

See Deloitte Report at [6.31.4] - [6.31.9], [6.120.7] (final bullet point).

See also text messages between Mr Degen and Mr Solo (GCU.1000.0002.3764).

15. GAM International Management Limited (**GIML**) was an entity within the GAM group of companies.

16. In about late November 2014, GIML commenced a business relationship with Greensill, pursuant to which it invested customers' monies in GIML-managed funds in Greensill originated assets.

Particulars

Final Notice of the Financial Conduct Authority addressed to GIML with reference number 122331 dated 29 March 2022 (**GAM FCA Notice**) at paragraphs 2.12 and 4.47(MAR.0008.2000.0011).

17. In about late 2014, Mr Solo lent about A$12.2 million to Greensill.

Particulars

Article in the Financial Times dated 1 June 2021 – "How Swiss asset managers opened their doors to Lex Greensill" (MAR.0008.2000.0006). See article on FT News dated 1 June 2021 – "David Solo's Sway Propelled Greensill" (MAR.0008.2000.0007).

18. From about December 2014, Ratamacue Corporation, of which Mr Solo was President, held shares in GCPL in varying amounts and with various rights assigned to those shares.

Particulars

See ASIC form with document identification number 029137444 (MAR.0008.2000.0002).

19. In about early October 2015, an investment structure was agreed between GIML and Greensill, such as to permit:

a. GIML to access Greensill's supply chain finance assets; and

b. Greensill to access GAM's short-term cash balances.

Particulars

See GAM FCA Notice at paragraph 4.48.

20. In June 2016, GAM launched a Luxembourg-domiciled fund known as the GAM Greensill Supply Chain Finance Fund to invest in supply chain finance assets sourced by Greensill (the **GAM Greensill Fund**).

Particulars

See GAM FCA Notice at paragraphs 2.17, 4.50.

21. In about June 2016, Mr Solo lent a further about US$2.5 million to Mr Greensill.

Particulars

See email from Mr Solo to Mr Greensill dated 16 June 2016: GCU.0001.0003.7445; email chain between Mr Solo and Mr Greensill dated 29 July 2016 to 1 August 2016: GCU.0001.0004.2340; email chain involving Mr Solo and Mr Greensill dated 27 April 2017: GCU.0001.0009.8938. The terms of the loan permitted Mr Solo to acquire ordinary shares in GCPL.

22. By no later than about July 2016, Mr Solo owned shares in GCPL.

Particulars

See ASIC form with document identification number 7E8242061: MAR.0008.2000.0003.

23. By September 2016, GIML-managed funds had invested US$18 million in Greensill originated assets.

Particulars

See GAM FCA Notice at paragraph 4.51.

24. In about October 2016, GIML-managed funds financed an entity owned by GCPL, Laufer Limited (**Laufer**), using approximately £110 million of customers' monies in GIML-managed funds.

Particulars

See GAM FCA Notice at paragraphs 2.13, 4.54-4.55.

25. Some of the funds lent by GIML-managed funds to Greensill were used to repay the 2014 loan by Mr Solo to Greensill.

Particulars

See article in the Financial Times dated 1 June 2021 – "How Swiss asset managers opened their doors to Lex Greensill" (MAR.0008.2000.0006).

Mr Gupta

26. At a time prior to July 2016 which is not presently known to Marsh, Greensill entered into supply chain finance facilities with respect to entities associated with Sanjeev Gupta.

Particulars

This included facilities for "SIMEC" and "Liberty House". Their existence is referred to in an email chain entitled "Partnership" between Mr Greensill and Mr Gupta from 14 July 2016 to 17 July 2016: GCU.0001.0003.9876.

27. By no later than about August 2016, Mr Gupta owned shares in GCPL.

Particulars

See ASIC form with document identification number 029745635; MAR.0008.2000.0004.

27A. Between about July to September 2016, Mr Gupta and Mr Greensill discussed:

a. the terms of potential loans from Mr Gupta (and/or entities associated with Mr Gupta) to Greensill; and

b. the acquisition of equity in Greensill by Mr Gupta (and/or entities associated with Mr Gupta).

Particulars

i Negotiation and discussion of loans to and/or investments in Greensill by Mr Gupta is recorded in: an email chain entitled "Partnership" between Mr Greensill and Mr Gupta from 14 July 2016 to 17 July 2016, which included a proposal for adjustments to pricing for existing SIMEC and Liberty House facilities, various options for Mr Gupta to be involved in Greensill entities, and terms relating to Mr Gupta's use of a Greensill company aeroplane: GCU.0001.0003.9876; an email chain between Mr Solo and Mr Greensill from about 29 July 2016 to 1 August 2016: GCU.0001.0004.2340; an email chain between Mr Greensill and Mr Gupta on 2 August 2016: GCU.0001.0004.2394; an email chain between Mr Solo and Mr Greensill on 11 September 2016: GCU.0001.0004.9805.

ii See email from Clyde & Co to Mr Gupta and JKay Hambro (Chief Investment Officer, Chief Executive Energy & Mining Divisions, SIMEC), forwarded to Lex Greensill on 20 July 2016 discussing "*an initial $10m of equity and a commitment for a further $20m…[to] be invested contemporaneously with obtaining increased facilities of $30m*" and a GCUK guarantee for the Greensill family trusts' put option payment obligations, such guarantee being subject to a group set-off entitlement and secured over debts owed by Liberty and SIMEC to GCUK: GCU.0001.0004.0502.

iii See email between Clyde & Co and Mr Gupta, forwarded to Lex Greensill on 1 September 2016: GCU.0001.0004.7914; emails between Mr Greensill and Mr Gupta dated 1 September 2016: GCU.0001.0004.7945; email from Mr Greensill to Mr Gupta dated 1 September 2016:

GCU.0009.0001.3436; email from Mr Greensill to Jason Austin (Greensill) dated 7 September 2016: GCU.0010.0001.2760.

iv See email from Mr Greensill to several Greensill personnel dated 1 September 2016 regarding pricing revisions for Liberty Commodities and SIMEC. Mr Greensill stated that pricing had been revised for those entities "*because (Brett [Downes] and I) agreed it with Sanjeev Gupta who is now a shareholder of Greensill Capital*": GCU.0001.0004.7935.

28. By about September 2016 or shortly thereafter, Mr Gupta (and/or entities associated with Mr Gupta) had lent and/or invested about US$30 million in Greensill.

Particulars

i The existence of the loans and/or investments is referred to in an email from Mr Greensill to Mr Solo dated 11 September 2016 – "*At the end of the day, Gupta, is putting $30mm into our company ($15mm of which is already in)*": GCU.0001.0004.9805.

ii That Mr Gupta was a shareholder in GCPL is recorded in a public ASIC company search for that entity.

28A. On about 9 September 2016, GCUK and entities associated with Mr Gupta (Liberty and SIMEC) entered into an agreement under which:

a. Liberty Commodities and SIMEC Group Limited provided a secured loan facility to GCUK up to an aggregate maximum principal amount not exceeding US $25 million; and

b. GCUK agreed that Liberty Commodities and SIMEC Group Limited could offset indebtedness under their respective facilities with GCUK against GCUK's indebtedness under the loan.

Particulars

Email from Mr Austin to Stewart Perry (Clyde & Co) on 9 September 2016 attaching a short-form loan agreement and side letters for Liberty Commodities and SIMEC: GCU.0001.0004.9492, GCU.0001.0004.9493, GCU.0001.0004.9494, GCU.0001.0004.9495.

28B. On about 14 September 2016, Mr Greensill, Liberty Commodities and SIMEC Group Limited entered into a put option agreement under which Lex Greensill granted Liberty Commodities and SIMEC an option to require Mr Greensill to purchase the loan.

Particulars

Email from Mr Perry to Mr Austin, copying Mr Greensill, Mr Gupta and others attaching a completed put option agreement: GCU.0005.0001.0117, GCU.0005.0001.0118.

28C. In about September 2016, Greensill made significant payments to SIMEC and Liberty Commodities to reflect "*bill discount proceeds*" that were then immediately paid back to GCUK.

Particulars

Email from Mr Gupta to Mr Greensill on 11 September 2016 stating that Mr Gupta had not envisaged the proceeds being assigned directly into loans to GC and that he would much rather receive the proceeds and provide the loans separately: GCU.0001.0005.0156.

Emails between Greensill and SIMEC dated 12 September 2016 regarding the transfer of US $7.3 million: GCU.0009.0001.3591.

Emails between Greensill and Liberty House UK dated 13 to 14 September 2016 regarding the transfer of US $10 million: GCU.0013.0001.1752. John Luu (Managing Director, GCUK) confirmed that "*LCL and SIMEC [were to] repay the exact amount received tomorrow*" to GCUK.

Email from Piyush Sarana (SIMEC) to Ian Bryan (Greensill) and Mr Luu (Greensill) dated 8 February 2017 stating "*SIMEC recd. UD 7,311,050.16/- from Greensill on 13.09.2016 and then we repaid it back on 14.09.2016 The same amount was recd. back at RBS a/c on 24-Oct-2016… there was also a transfer of USD 2,428,954.87 /- in Liberty Commodities Limited – RBS. – Recd. 12.09.2016 / Paid 14.09.2016 / Recd. Again. 24.10.2016*" (GCU.0001.0008.2465).

28D. On about 21 December 2016, GCUK transferred £25.5 million directly into Mr Gupta's personal account in Hong Kong at the request of Liberty Commodities.

Particulars

Email from James Potter (Liberty House) to Mr Greensill, copying Jay Hambro (SIMEC) and Mr Gupta dated 21 December 2016: GCU.0001.0007.1184.

See email from Liam Carden (Greensill) to the Greensill payments team (copied to Mr Greensill) dated 21 December 2016 confirming payment to Mr Gupta, and subsequent emails between Mr Gupta and Mr Greensill: GCU.0001.0007.1368.

29. In about April 2017, Mr Gupta, Mr Greensill and Peter Greensill entered into a further loan agreement.

Particulars

This loan is referred to in an email chain between Mr Greensill, Mr Gupta and Simon Vere Nicoll of Clyde & Co dated 23 April 2017 to 26 April 2017: GCU.0001.0009.8878. See also a copy of email chain between Mr Greensill, Mr Gupta and Simon Vere Nicoll dated 23 April 2017 to 27 April 2017 at GCU.0009.0001.6789, attaching an executed version of the loan agreement (being GCU.0009.0001.6790).

The loan is also referred to in an earlier email chain between (*inter alia*) Mr Greensill, Mr Gupta and Simon Vere Nicoll of Clyde & Co dated 2 March 2017 to 20 March 2017: GCU.0001.0008.9927.

Mr Greensill requested to draw down £7 million of the loan in an email to Mr Gupta dated 2 May 2017: GCU.0001.0010.0027.

Further details may be provided following evidence and disclosure.

B2 Greensill's initial proposal to the Credit Suisse Group

30. On about 3 March 2016, Mr Solo contacted a representative of the Credit Suisse Group by email to propose an opportunity ~~for it to be involved in~~ an investment with ~~Greensill~~ GCUK involving ~~trade credit facilities~~supply chain finance.

Particulars

Email from Mr Solo to Robert Jain: CSA.5000.0002.0005, CSA.5000.0002.0006. By that email, *inter alia*, Mr Solo provided an overview of a "special warehouse facility" which was "now running with GAM", and set out his reasons why he "brought" trade finance assets to GAM; explained how Greensill's business worked, and his views as to the attractiveness of the opportunity for the Credit Suisse Group; and attached a presentation on the "warehouse" and accompanying legal documents. The attached presentation provided an overview of a "warehouse" structure which had been established by Greensill, which at that stage involved the use of a special purpose vehicle referred to as Lagoon Park Capital S.A (**Lagoon Park**) to acquire notes.

On about 15 March 2016, Mr Jain forwarded the presentation provided by Mr Solo to Luc Mathys, Michel Degen (each of CSAM) and Steven Hollands (of Greensill), indicating to the effect that he thought it was an interesting note and that he wondered whether there was a fund that could potentially buy the assets: see CSA.5000.0002.0007.

31. In about March 2016, Mr Greensill presented to representatives of the Credit Suisse Group (including representatives of CSAM and/or CSFM), explaining:

a. the concept of a fund with securitised trade credit receivables;

b. that Greensill could offer the Credit Suisse Group a warehousing agreement;

c. that pursuant to this warehousing agreement, Greensill would locate suitable debtors, acquire receivables, securitise them, and structure notes, which would then be sold to a new supply chain finance fund; and

d. that part of the services to be provided by Greensill was also the monitoring of the debtors as well as the insurance of the receivables.

Particulars

See the "Annual General Meeting of Credit Suisse AG (Response to a request for Information) dated 4 April 2022 (**April 2022 AGM RFI**) at page 5: see MAR.0008.2000.0001.

B3 Further engagement between Greensill and the Credit Suisse Group to develop an investment fund

32. In about June and July 2016, representatives of Greensill and the Credit Suisse Group (including representatives of CSAM and/or CSFM) engaged in further discussions about Greensill's proposal for Credit Suisse to invest in trade credit receivables.

Particulars

i On about 8 June 2016, Mr Solo met with Mr Degen of CSAM: see GCU.0001.0003.5820.

ii On about 16 June 2016, Mr Degen and Niklaus Hilti of CSAM met with Mr Greensill and Mr Solo: see CSA.5000.0002.0027.

iii On about 16 June 2016, Mr Degen sent an internal email within CSAM containing a summary of Greensill's proposal: CSA.5000.0004.8459.

iv On about 27 June 2016, Mr Degen sent an email to Mr Greensill and Mr Solo indicating that CSAM would like to continue with the project and set up a small project team: see CSA.5000.0002.0027.

v On about 28 June 2016, Mr Greensill provided a copy of a presentation to Mr Degen, copying Mr Solo. That presentation was then circulated within the Credit Suisse Group, including to Oliver Gasser, Mr Mathys, Jos Hehenkamp (of CSAM) and Christian Mossdorf (of CSAM): CSA.5000.0002.0027, CSA.5000.0002.0028. That presentation, *inter alia*, set out Greensill's proposed syndication structure.

vi On about 14 July 2016, representatives of Greensill met with representatives of the Credit Suisse Group (including representatives of CSAM and/or CSFM) to further discuss the proposal. See record of

meeting in email chain between Mr Greensill and Mr Solo on 14 July 2016: GCU.0001.0003.9662.

33. On about 14 July 2016, at a meeting between representatives of Greensill and the Credit Suisse Group (including representatives of CSAM and/or CSFM), a representative from an insurance-linked team within the Credit Suisse Group indicated that she had reservations about the proposed use of insurance in the proposal by Greensill, because it gave rise to more insurance company risk.

Particulars

See record of meeting in email chain between Mr Greensill and Mr Solo on 14 July 2016: GCU.0001.0003.9662. Further documentation recording this concern does not appear to have been discovered to date by the Applicant in the proceedings /Respondents to the Cross-Claim (**UBS**). Further particulars may be provided following evidence and disclosure.

34. In the period from about July 2016 until about March 2017, representatives of Greensill and the Credit Suisse Group (including representatives of CSAM and/or CSFM) worked on a project for an entity within the Credit Suisse Group to invest in Greensill's supply chain finance notes programs, and as part of that work:

a. Greensill provided to representatives of the Credit Suisse Group (including representatives of CSAM and/or CSFM) documentation relating to its Lagoon Park special purpose vehicle;

Particulars

See email from Mr Solo to Mr Degen and Mr Hehenkamp dated 16 August 2016 providing the base prospectus for the Lagoon Park notes program: GCU.0001.0004.9414. See CSA.5000.0001.0002, CSA.5000.0001.0003, CSA.5000.0001.0004, CSA.5000.0001.0005, CSA.5000.0001.0006, CSA.5000.0001.0007, CSA.5000.0001.0008, CSA.5000.0001.0009, CSA.5000.0001.0010.

b. Greensill provided to representatives of the Credit Suisse Group (including representatives of CSAM and/or CSFM) documentation relating to the GAM Greensill Fund;

Particulars

i Email from Mr Degen to Mr Solo and Bill Johnson dated 10 August 2016: GCU.0001.0004.3754.

ii Email from Mr Solo to Mr Degen and Mr Hehenkamp dated 16 August 2016: GCU.0001.0004.9414, attaching GCU.0001.0004.9415 and GCU.0001.0004.9416.

iii On a date not presently known to Marsh, Greensill provided representatives of the Credit Suisse Group (including CSAM and/or CSFM) with a copy of a Private Placement Memorandum for the GAM Greensill Fund dated July 2016: see email from Nina Egelhof (of CSFM) dated 6 March 2021 at CSA.5000.0003.9136; CSA.5000.0003.9145.

iv See emails dated 31 August 2016 and 6 September 2016 from Mr Hehenkamp to Mr Greensill and Solo, copying others: CSA.5000.0003.0012.

c. representatives of the Credit Suisse Group (including CSAM and/or CSFM) provided Greensill with updates on its consideration of the structure of a Credit Suisse supply chain finance fund to acquire notes issued by the Lagoon Park special purpose vehicle pursuant to a warehouse facility;

Particulars

See emails dated 31 August 2016 and 6 September 2016 from Mr Hehenkamp to Mr Greensill and Solo, copying others: CSA.5000.0003.0012. See email from Mr Solo to Mr Greensill dated 24 November 2016 attaching slide deck “Credit Suisse (Lux) Greensill SCF Fund – Efficient Access to Supply Chain Financing”: GCU.0001.0006.4828, GCU.0001.0006.4829.

d. in about December 2016, representatives of Greensill provided representatives of Credit Suisse (including CSAM and/or CSFM) with information about a Greensill supply chain finance program involving entities associated with Mr Gupta;

Particulars

See email chain between Mr Solo and Mr Greensill dated 4 December 2016, with attached information memorandum: GCU.0001.0006.6553, GCU.0001.0006.6550. As far as Marsh is aware, documents recording representatives of the Credit Suisse Group being provided with information about supply chain finance programs involving entities associated with Mr Gupta at about this time have not been discovered by Credit Suisse at this stage. Further particulars may be provided following evidence and disclosure.

da. between about September 2016 and October 2016, representatives of Greensill and representatives of Credit Suisse (including CSAM and/or CSFM) discussed the proposed approach to insurance for the proposed Greensill supply chain finance program;

Particulars

See email chain involving (at various times) Mr Solo, Mr Whelan, Mr Hehenkamp, Lex Greensill, Mr Degen and others between 6 September 2016 and 3 October 2016: CSA.5000.0008.3033.

e. in about February 2017, CSAM provided Greensill with a draft Offering Memorandum and strategy paper for the proposed Virtuoso Sub-Fund; and

Particulars

See email from Mr Mossdorf to Mr Sels, copying Mr Whelan, Mr Greensill, Mr Hehenkamp, Mr Haas and Mr Mathys dated 10 February 2017: CSA.5000.0001.0018.

See also draft of strategy paper dated 17 February 2017: CSA.7000.0002.6525.

f. persons within the risk management team at Credit Suisse raised concerns about steps which ought to be performed where it was proposed that Credit Suisse's Greensill fund would not be "UCITS-like".

Particulars

A reference to the fund being "UCITS"-like is a reference to Undertakings for Collective Investment in Transferable Securities, a type of management scheme in Luxembourg. Such a management scheme is different to an AIF. Such risk management concerns were raised, *inter alia*, in an email from Anthony Van Wijngaarden (Credit Suisse risk management) dated 29 December 2016 at CSA.5000.0003.0034. The raising of such concerns led to concerns being raised by the project team that such risk management concerns might delay or prevent the project. See email in the same chain from Mr Hehenkamp to Ms Egelhof dated 30 December 2016: "*It makes me mad and sick to think this person and his group ... works for the same company ... I cannot believe how business destructive they are...*"; email from Ms Egelhof to Mr Hehenkamp dated 30 December 2016: "*To me it looks like nobody from risk wants to take on such products... which is very bad*". The manner in which Mr Van Wijngaarden's concerns were resolved is not presently apparent from the

documents discovered by the Applicant to date. Further particulars may be provided following evidence and disclosure.

B4 The structure of the investment process

35. By about the end of March 2017, the process by which Credit Suisse was to invest in Greensill's supply chain finance programs was to involve:

a. Greensill:

i locating debtors;

ii acquiring receivables;

iii assigning payment obligations into a special purpose vehicle (which at that stage was to be Lagoon Park);

iv securitising the payment obligations into notes issued by the special purpose vehicle;

v liaising with and monitoring debtors on an ongoing basis; and

vi arranging any insurance with respect to the investments, including selecting insurers and negotiating insurance policies;

b. the Virtuoso Sub-Fund being established for the purpose of acquiring notes from the special purpose vehicle;

c. the notes issued by the special purpose vehicle being (or primarily being) acquired by the Virtuoso Sub-Fund under warehouse facility arrangements;

d. the acquisition of the notes under the warehouse facility arrangements occurring in accordance with predetermined criteria, with CSAM (as proposed Portfolio Manager for the Virtuoso Sub-Fund) not exercising discretionary investment management powers in respect of the acquisition of the notes; and

e. the proceeds raised by the acquisition of notes by the Virtuoso Sub-Fund being used by Greensill to provide supply chain financing to obligors, in exchange for obligors assigning receivables.

B5 The Offering Memoranda for the Virtuoso Sub-Fund

36. On about 31 March 2017, in advance of the launch of the Virtuoso Sub-Fund, the Virtuoso Parent published an Offering Memorandum (**March 2017 Offering Memorandum**).

Particulars

Credit Suisse Virtuoso SICAV-SIF – Investment Company with Variable Capital under Luxembourg Law Specialised Investment Fund – Offering Memorandum – 31 March 2017: CSA.5000.0001.0030.

37. The March 2017 Offering Memorandum stated to the effect that:

a. the Virtuoso Parent had designated CSFM to act as its Alternative Investment Fund Manager (**AIFM**);

Particulars

March 2017 Offering Memorandum at section 3 – "The Company", p 5. See also section 16, "Management and Administration - AIFM", p 17.

b. CSFM performed investment management activities, specifically portfolio and/or risk management activities;

Particulars

March 2017 Offering Memorandum at section 3 – "The Company", p 5.

c. CSFM had established and maintained a permanent risk management function that implemented effective risk management policies and procedures in order to identify, measure, manage and monitor on an ongoing basis all risks relevant to the Virtuoso Sub-Fund's investment strategy including in particular market, credit, liquidity, counterparty, operational and all other relevant risks;

Particulars

March 2017 Offering Memorandum at Section 5 – "Risk and Liquidity Management", p 5.

d. CSFM applied a comprehensive process based on qualitative and quantitative risk measures to assess the risks of the Virtuoso Sub-Fund;

Particulars

March 2017 Offering Memorandum at Section 5 – "Risk and Liquidity Management", p 5.

e. CSFM acted in the best interests of the Virtuoso Parent when executing investment decisions, and for that purpose it took all reasonable steps to obtain the best possible result for the Virtuoso Parent;

Particulars

March 2017 Offering Memorandum at Section 17 – "Regulatory Disclosure – Best Execution", p 19.

f. the Virtuoso Parent's Board of Directors had appointed CSFM to implement the Virtuoso Sub-Fund's investment policy on a day-to-day basis;

Particulars

March 2017 Offering Memorandum at section 16 – "Management and Administration – Portfolio Managers and Sub-Portfolio Managers", p 17.

g. in order to implement the policy of the Virtuoso Sub-Fund, CSFM may delegate, under its permanent supervision and responsibility, the management of the assets of the Virtuoso Sub-Fund to one or more Portfolio Managers;

Particulars

March 2017 Offering Memorandum at section 16 – "Management and Administration – Portfolio Managers and Sub-Portfolio Managers", p 17.

h. the Portfolio Manager had discretion, on a day-to-day basis and subject to the overall control and ultimate responsibility of CSFM, to purchase and sell securities and otherwise manage the Virtuoso Sub-Fund's portfolios.

Particulars

March 2017 Offering Memorandum at section 16 – "Management and Administration – Portfolio Managers and Sub-Portfolio Managers", p 17.

i. the Virtuoso Sub-Fund would primarily acquire notes under one or several warehouse facility arrangement(s) entered into to acquire notes from the distributor(s) of the notes appointed by the issuer, and pursuant to the terms of those warehouse facility arrangement(s), the sub-fund undertook to buy the notes issued from time to time by the issuer subject to (i) the availability of sufficient cash at the level of the sub-fund and (ii) the sub-fund's risk diversification rules;

Particulars

March 2017 Offering Memorandum at section 22 – "The Subfund" in that part of the table relating to the Virtuoso Sub-Fund (**Virtuoso Sub Fund Table**), in the row "Investment Objective and Policy" at p 27.

j. the Portfolio Manager would not exercise discretionary investment management powers in respect of the notes at the time of their acquisition and throughout the period of time they remained assets of the Virtuoso Sub-Fund;

Particulars

Virtuoso Sub-Fund Table in the row “Investment Objective and Policy” at p 27.

k. the notes acquired under the warehouse facility arrangement(s) would be required to meet certain predetermined criteria as set out in those arrangement(s); and

Particulars

Virtuoso Sub-Fund Table in the row “Investment Objective and Policy” at p 27.

l. the Portfolio Manager for the Virtuoso Sub-Fund was CSAM.

Particulars

Virtuoso Sub-Fund Table in the row “Portfolio Manager” at p 28.

38. With respect to risks associated with investing in the Virtuoso Sub-Fund, the March 2017 Offering Memorandum stated to the effect that:

a. it was a special risk of the Virtuoso Sub-Fund that it might at certain times have relatively large exposure to a small number of obligors (i.e., buyers), with the result that a loss in respect of any obligor (i.e., buyer) could have a material adverse impact on the sub-fund's assets;

Particulars

Virtuoso Sub-Fund Table in the row “Special Risk Profile” at p 28.

b. it was a special risk of the Virtuoso Sub-Fund that it predominantly invested in notes (or similar investment instruments), and at times, and for extended periods of time, it might invest in such notes issued by one or a limited number of issuers and related to a limited number of obligors (i.e., buyers);

Particulars

Virtuoso Sub-Fund Table in the row “Special Risk Profile” at p 28.

c. it was a special risk of the Virtuoso Sub-Fund that obligors (i.e., buyers) might operate in highly correlated businesses, industries, or geographies, and the Virtuoso Sub-Fund's performance may therefore be adversely affected by the concentration of exposure within the sub-fund to one area, country, industry, obligor (i.e., buyer), or issuer;

Particulars

Virtuoso Sub-Fund Table in the row “Special Risk Profile” at p 28.

d. it was a special risk of the Virtuoso Sub-Fund that it predominantly invested in notes that were generally not listed on any national securities exchange or automated quotation system and no active trading market existed for them, and as a result the notes might be less liquid, meaning the sub-fund might not be able to sell them quickly at a fair price, and the market could be disrupted in the event of an economic downturn or a substantial increase or decrease in interest rates or corporate events or scandals affecting the obligor (i.e. buyer);

Particulars

Virtuoso Sub-Fund Table in the row “Special Risk Profile” at p 29.

e. it was a special risk of the Virtuoso Sub-Fund that investors in the sub-fund were exposed to the credit risk of the obligors (i.e., buyers) of the trade receivables pool in the sense that the notes, like other debt obligations, were subject to the risk of default (i.e., non-payment of scheduled interest or principal payments);

Particulars

Virtuoso Sub-Fund Table in the row “Special Risk Profile” at p 29.

f. it was a special risk of the Virtuoso Sub-Fund that although the majority of the notes were insured, there was no guarantee to the investors in the sub-fund that, in the event of an obligor (i.e., buyer) defaulting, the insurer would be able to cover in full or in part the notes' expected payment to the sub-fund;

Particulars

Virtuoso Sub-Fund Table in the row “Special Risk Profile” at p 29.

g. it was a special risk of the Virtuoso Sub-Fund that the success of each investment made by the sub-fund in the notes (or similar investment instruments) relied ultimately upon either the obligor (i.e. buyer) or the insurer under the associated insurance contract paying in full and on time, and to the extent that a payment was not made, or was later than expected, the performance of the sub-fund may suffer;

Particulars

Virtuoso Sub-Fund Table in the row “Special Risk Profile” at p 29.

h. it was a special risk of the Virtuoso Sub-Fund that the reasons for a payment not being made by the obligor (i.e., buyer) might include error, omission, lack of diligence, fraud by the officers of the obligor (i.e., buyer), default or insolvency of the obligor (i.e., buyer); disruption, insurrection, and an Act of God; and

Particulars

Virtuoso Sub-Fund Table in the row “Special Risk Profile” at p 29.

i. it was a special risk of the Virtuoso Sub-Fund that the reasons for the associated insurance contract not paying in full and on time included repudiation of the claim by the insurer, error, omission, lack of diligence, fraud by the officers of the insurer or those parties arranging the insurance, default or insolvency of the insurer, disruption, insurrection, or an Act of God in the locations where the insurer or those parties arranging the insurance have operations.

Particulars

Virtuoso Sub-Fund Table in the row “Special Risk Profile” at p 29.

39. Between 22 May 2017 and 10 March 2021, the Virtuoso Parent published further Offering Memoranda.

Particulars

On about 22 May 2017 (CSA.5000.0002.9790), 31 July 2017 (CSA.5000.0002.9787), 6 October 2017 (CSA.5000.0002.9789), 16 October 2017 (CSA.5000.0002.9785), 5 January 2018 (CSA.5000.0004.8281), a day not presently known to Marsh in May 2018 (CSA.5000.0002.9788), a day not presently known to Marsh in August 2018 (CSA.5000.0004.8282), 7 February 2019 (CSA.5000.0004.8284), 1 July 2019 (CSA.5000.0004.0115) (**July 2019 Offering Memorandum**), 30 September 2020 CSA.5000.0004.8283 (**September 2020 Offering Memorandum**), 10 March 2021 CSA.5000.0002.9792 (**March 2021 Offering Memorandum**), (together, **Further Offering Memoranda**).

40. With respect to the matters pleaded at paragraphs 37 to 38 above, the terms of the March 2017 Offering Memorandum were also included in the Further Offering Memoranda, save for in the July 2019 Offering Memorandum, September 2020 Offering Memorandum and March 2021 Offering Memorandum, the statements at paragraphs 38(e) to (h) above were replaced with statements to the effect that, with respect to risks associated with investing in the Virtuoso Sub-Fund:

a. it was a special risk of the Virtuoso Sub-Fund that investors in the sub-fund were exposed to the credit risk of the obligors (i.e. buyers) of the Receivables pool, of account receivables supplier or seller and where applicable their guarantor(s) in the sense that the notes, like other debt obligations, were subject to the risk of default (i.e. non-payment of scheduled interest or principal payments);

Particulars

Virtuoso Sub Fund Table, in the row "Special Risk Profile" at p 30 of the July 2019 Offering Memorandum, p 31 of the September 2020 Offering Memorandum and p 32 of the March 2021 Offering Memorandum.

b. it was a special risk of the Virtuoso Sub-Fund that although the notes were insured, there was no guarantee to the investors in the sub-fund that, in the event of an obligor (i.e., buyer), account receivables supplier or seller or where applicable their guarantor(s) default the insurer will be able to cover in full or in part the notes' expected payment to the sub-fund;

Particulars

Virtuoso Sub Fund Table, in the row "Special Risk Profile" at p 30 of the July 2019 Offering Memorandum, p 31 of the September 2020 Offering Memorandum and p 32 of the March 2021 Offering Memorandum.

c. it was a special risk of the Virtuoso Sub-Fund that the success of each investment made by the sub-fund in the notes (or similar investment instruments) relied ultimately upon the obligor (i.e., buyer), account receivables supplier or seller and where applicable their guarantor(s) and the insurer under the associated insurance contract paying in full and on time, and to the extent that a payment was not made, or was later than expected, the performance of the sub-fund may suffer; and

Particulars

Virtuoso Sub Fund Table, in the row "Special Risk Profile" at p 30 of the July 2019 Offering Memorandum, p 31 of the September 2020 Offering Memorandum and p 32 of the March 2021 Offering Memorandum.

d. it was a special risk of the Virtuoso Sub-Fund that the reasons for a payment not being made by the obligor (i.e., buyer) or an obligation not being respected by a supplier or seller or where applicable their guarantor(s) may include error, omission, lack of diligence, fraud by their officers, default or insolvency, disruption, insurrection and an Act of God.

Particulars

Virtuoso Sub Fund Table, in the row "Special Risk Profile" at p 30 of the July 2019 Offering Memorandum, p 31 of the September 2020 Offering Memorandum and p 32 of the March 2021 Offering Memorandum.

41. The September 2020 Offering Memorandum and March 2021 Offering Memorandum also stated to the effect that:

    a. CSFM ensured a high level of diligence in the selection and ongoing monitoring of investments in the best interests of the Virtuoso Parent and the integrity of the market; and

    b. CSFM had implemented written policies and procedures on due diligence as well as effective arrangements for ensuring that investment decisions were carried out in compliance with the investment objective and investment policy of the Virtuoso Parent, taking into consideration and adhering to applicable risk limits.

Particulars

September 2020 Offering Memorandum at Section 17 – "Regulatory Disclosure – Best Execution", p 22.

March 2021 Offering Memorandum at Section 17 – "Regulatory Disclosure – Best Execution", p 22.

B6 The Internal Investment Guidelines for the Virtuoso Sub-Fund

42. On about 10 April 2017, Internal Investment Guidelines were issued for the Virtuoso Sub-Fund.

Particulars

CSA.5000.0004.7040.

43. Between about 26 August 2017 and 7 October 2019, a further six iterations of the Internal Investment Guidelines were issued for the Virtuoso Sub-Fund.

Particulars

CSA.5000.0004.7040, CSA.5000.0004.7041, CSA.5000.0004.7042, CSA.5000.0004.7043, CSA.5000.0004.7044, CSA.5000.0003.5959 and CSA.5000.0004.7046.

44. A purpose of the Internal Investment Guidelines for the Virtuoso Sub-fund was to define particular financial instruments in which the Virtuoso Sub-Fund was permitted to invest.

B7 The Virtuoso Warehousing Letters

45. By a letter dated 21 April 2017 (the **April 2017 Virtuoso Warehousing Letter**), CSAM agreed on behalf of the Virtuoso Sub-Fund to acquire all Lagoon Park notes offered to it on the terms set out in the letter and subject to the conditions set out in the letter.

Particulars

Letter dated 21 April 2017 sent by CSAM in its capacity as Portfolio Manager of the Virtuoso Sub-Fund to GCUK and Morgan Stanley & Co International Plc (**Morgan Stanley**) (in its capacity as a "Distributor"): CSA.5000.0001.0039.

46. By a letter dated 4 October 2017 (the **October 2017 Virtuoso Warehousing Letter**):

a. the April 2017 Virtuoso Warehousing Letter was superseded and replaced; and

b. CSAM agreed on behalf of the Virtuoso Sub-Fund to acquire all Lagoon Park notes (as well as notes issued by another special purpose vehicle, Wickham SA (**Wickham**)), offered to it on the terms set out in the letter and subject to the conditions set out in the letter.

Particulars

Letter dated 4 October 2017 sent by CSAM in its capacity as Portfolio Manager of the Virtuoso Sub-Fund to GCUK and Morgan Stanley (in its capacity as a "Distributor"): CSA.0001.0057.0001.

47. By a letter dated 14 December 2017 (the **December 2017 Virtuoso Warehousing Letter**):

a. the October 2017 Virtuoso Warehousing Letter was superseded and replaced; and

b. CSAM agreed on behalf of the Virtuoso Sub-Fund to acquire all Lagoon Park, Wickham and Hoffman S.à r.l. (**Hoffman**) (being a special purpose vehicle described further below) notes offered to it on the terms set out in the letter and subject to the conditions set out in the letter.

Particulars

Letter dated 14 December 2017 sent by CSAM in its capacity as Portfolio Manager of the Virtuoso Sub-Fund to GCUK and Morgan Stanley (in its capacity as a "Distributor"): CSA.0001.0001.3633.

48. By a letter dated 4 April 2019 (the **April 2019 Virtuoso Warehousing Letter**):

a. the December 2017 Virtuoso Warehousing Letter was superseded and replaced; and

b. CSAM agreed on behalf of the Virtuoso Sub-Fund to acquire all Lagoon Park, Wickham and Hoffman notes offered to it on the terms set out in the letter and subject to the conditions set out in the letter.

Particulars

Letter dated 4 April 2019 sent by CSAM in its capacity as Portfolio Manager of the Virtuoso Sub-Fund to Morgan Stanley (in its capacity as a "Distributor"), GCUK, and Greensill Capital Securities Limited: CSA.0001.0001.3632.

48A. By a letter dated 13 September 2019 (**September 2019 Virtuoso Warehousing Letter**):

a. the April 2019 Virtuoso Warehousing Letter was superseded and replaced;

b. CSAM agreed on behalf of the Virtuoso Sub-Fund to acquire all Lagoon Park, Wickham and Hoffman notes offered to it on the terms set out in the letter and subject to the conditions set out in the letter;

c. a condition was introduced into the warehousing letter entitling the Virtuoso Sub-Fund to reject any notes offered to it and not be obliged to roll-over notes, where the underlying customer or obligor was, *inter alia*:

i facing fundamental credit metrics deterioration and substantial increase of default risk according to the assessment of CSAM; or

ii facing heightened public appearance with negative press leading to increased compliance and reputational risk for the Virtuoso Sub-Fund going forward; and

d. a condition was introduced into the warehousing letter entitling the Virtuoso Sub-Fund to dispose notes to any recipient of the September 2019 Virtuoso Warehousing Letter and/or other third parties where the underlying customer was, *inter alia*:

i facing fundamental credit metrics deterioration and a substantial increase of default risk according to the assessment of CSAM; or

ii facing heightened public appearance with negative press therefore leading to increased compliance and reputational risk for the Virtuoso Sub-Fund going forward.

Particulars

Letter dated 13 September 2019 sent by CSAM in its capacity as Portfolio Manager of the Virtuoso Sub-Fund to the "Distributors" (as defined in the letter) Greensill Capital Securities Limited, and GCUK: CSA.5000.0004.6157 and CSA.7000.0002.6527.

The condition was introduced in response to, at least, issues with GAM / entities associated with Mr Gupta: see Mr Degen interview with Wenger Plattner dated 8 July 2021 at [28] (CSA.5000.0008.3337).

B8 The launch of the Virtuoso Sub-Fund

49. On about 24 April 2017, the Virtuoso Sub-Fund was launched.

50. The Virtuoso Sub-Fund was formed for the purpose of making investments in Greensill's supply chain finance programs, by acquiring securitised notes.

C THE LAGOON PARK NOTES PROGRAM

51. Lagoon Park is, and was at all material times:

a. a company incorporated under the laws of Luxembourg; and

b. a securitisation company within the meaning of and governed by the Luxembourg Securitisation Act 2004 (Luxembourg).

52. For the purposes of this Cross-Claim for contribution, Marsh pleads that:

a. Lagoon Park was a special purpose vehicle established by Greensill for the purpose of issuing notes sourced by Greensill to investors;

b. on about 19 November 2015, Lagoon Park, TMF Luxembourg SA and Citibank N.A., London Branch (**Citibank**) entered into a Master Trust Deed, pursuant to which Lagoon Park was able to issue notes to investors in separate series; and

Particulars

The Master Trust Deed for Lagoon Park was in writing and dated 19 October 2015: CSA.0001.0008.2619. It was supplemented by Supplemental Master Trust Deeds dated 20 September 2016 (CSA.0001.0001.3245); 5 December 2016 (CSA.0023.0002.9850) and 26 November 2018 (CSA.0001.0001.3223).

c. prior to the launch of the Virtuoso Sub-Fund, Lagoon Park was the special purpose vehicle by which notes sourced by Greensill were issued to GAM.

53. The issuing of notes by Lagoon Park was the subject of a disclosure document referred to as a Base Memorandum dated 5 December 2016 (the **Lagoon Park Base Memorandum**), which with respect to the notes which it offered, stated to the effect that, *inter alia*:

a. the ability of Lagoon Park to make payments under the notes depended on the performance of the relevant obligor, and prospective investors were advised to undertake their own due diligence and analysis of the relevant obligor;

Particulars

Lagoon Park Base Memorandum (CSA.5000.0001.0003) at p 2.

b. by acquiring the notes offered, each prospective investor was deemed to have conducted its own investigation of the relevant obligor;

Particulars

Lagoon Park Base Memorandum at p 2.

c. by acquiring the notes offered, each prospective investor acknowledged that neither Lagoon Park nor any other party related to the offering of the notes was liable for any information with respect to the relevant obligor;

Particulars

Lagoon Park Base Memorandum at p 2.

d. any investors interested in participating in the offering should conduct an independent investigation of the risks posed by an investment in the notes;

Particulars

Lagoon Park Base Memorandum at p 3.

e. that where information was made available regarding the relevant obligors, neither Lagoon Park, the note trustee, the distributors, the trustee or GCUK nor any of their respective affiliates (as those persons are described in the memorandum) made any representation as to the accuracy or completeness of any information regarding the relevant obligors;

Particulars

Lagoon Park Base Memorandum at pp 3-4.

f. the notes may involve a high degree of risk, including the principal not being protected;

Particulars

Lagoon Park Base Memorandum at p 4.

g. the purchase of notes may involve substantial risks and was suitable only for sophisticated investors who had the knowledge and experience in financial and business matters necessary to enable them to evaluate the risks and the merits of an investment in the notes, and investors may lose their entire investment or part of it;

Particulars

Lagoon Park Base Memorandum at p 22.

h. Lagoon Park's sole business was the raising of money by issuing securities for the purposes of acquiring assets or risks relating to assets generally;

Particulars

Lagoon Park Base Memorandum at p 22.

i. a prospective purchaser of the notes should have such knowledge and experience in financial and business matters and expertise in assessing credit risk that it is capable of evaluating the merits, risks and suitability of investing in the notes including any credit risk associated with Lagoon Park, the relevant obligor under the relevant claims and any agent, and the ability of Lagoon Park to meet its obligations in respect of the notes issued by it would depend on each such entity performing their respective obligations in relation to the notes as applicable;

Particulars

Lagoon Park Base Memorandum at p 28.

j. prospective investors in notes should determine whether an investment in notes is appropriate in their particular circumstances and should consult with their legal, business, regulatory and tax advisers to determine the consequences of an investment in notes and to arrive at their own evaluation of the investment;

Particulars

Lagoon Park Base Memorandum at p 32.

k. each prospective investor must conduct its own investigation on the relevant obligor prior to its investment in any note;

Particulars

Lagoon Park Base Memorandum at p 33.

l. in the event of the occurrence of a failure to pay in respect of any relevant claim backing a series of notes, the realisable value of such relevant claim or any part thereof or, pending such realisation (if the relevant claim or any part thereof cannot be sold), the ability of Lagoon Park to make payments under the notes of the relevant series, would be affected;

Particulars

Lagoon Park Base Memorandum at p 35.

m. the performance and value of the notes of any series would be directly affected by the financial position of any relevant obligor applicable to that series, and, as a consequence, any downturn in the financial position in any such relevant obligor could have a corresponding negative effect on the value of the related notes and the proceeds, if any, that an investor may receive;

Particulars

Lagoon Park Base Memorandum at p 33.

n. noteholders should make their own enquiries as to the financial position of the relevant obligor relevant to any particular series of notes; and

Particulars

Lagoon Park Base Memorandum at p 34.

o. Lagoon Park, GCUK, the trustee, the distributors and/or any of their affiliates (as those persons are described in the memorandum), might be in possession of information in relation to relevant claims or the relevant obligors or suppliers that is or may be material in the context of the notes and may or may not be publicly available to noteholders, and there was no obligation on any such person to disclose to any potential investors in notes or to noteholders any such information.

Particulars

Lagoon Park Base Memorandum at p 43.

D OBLIGATIONS OF CSFM AND CSAM WITH RESPECT TO THE VIRTUOSO SUB-FUND

D1 The Virtuoso Management Agreement

54. On about 31 March 2017, CSFM and the Virtuoso Parent entered into a Management Agreement (**Virtuoso Management Agreement**).

Particulars

Management Agreement with “Agreement Date” as 31 March 2017 and “Creation Date” of 10 April 2017: CSA.0001.0011.1297 (with appendix at CSA.0001.0011.1296).

55. The Virtuoso Management Agreement applied to services provided with respect to the Virtuoso Sub-Fund.

Particulars

See appendix at CSA.0001.0011.1296.

56. By the Virtuoso Management Agreement:

a. CSFM was designated by the Virtuoso Parent to act as its AIFM with respect to the Virtuoso Sub-Fund; and

b. CSFM accepted its designation as AIFM for the Virtuoso Parent with respect to the Virtuoso Sub-Fund.

Particulars

Clause I.

57. It was a term of the Virtuoso Management Agreement that in performing any transaction on behalf of the Virtuoso Sub-Fund, CSFM must act in accordance with the provisions of Luxembourg Law applicable to the Virtuoso Sub-Fund.

Particulars

Clause II 2.1.

58. It was a term of the Virtuoso Management Agreement that in performing any transaction on behalf of the Virtuoso Sub-Fund, CSFM must act in accordance with:

a. the investment policies and applicable restrictions on investments set out in the Offering Document (being the prospectus of the fund as amended from time to time); and

b. the "Internal Investment Guidelines" for the Virtuoso Sub-Fund as established by CSFM within the general investment objective and policy of the Virtuoso Sub-Fund.

Particulars

Clause II 2.1.

59. It was a term of the Virtuoso Management Agreement that CSFM shall act honestly, with due care and diligence and fairly in conducting the activities covered by the agreement, and shall perform its obligations under the agreement with the due care customary of the profession.

Particulars

Clause II 4.1.

60. It was a term of the Virtuoso Management Agreement that CSFM shall act in the best interests of the Virtuoso Parent Fund or the investors of the Virtuoso Parent Fund and the integrity of the market.

Particulars

Clause II 4.2.

60A. It was a term of the Virtuoso Management Agreement that when executing a decision to deal on behalf of the Virtuoso Parent Fund, that CSFM shall take all reasonable steps to obtain the best possible result for the fund or its investors taking into account price, costs, speed, likelihood of execution and settlement, size, nature or any other consideration relevant to the execution of the order.

Particulars

Clause II 4.3.

61. It was a term of the Virtuoso Management Agreement that:

a. CSFM's compliance function must, operating independently, constantly monitor the Virtuoso Sub-Fund's assets in accordance with clause II 2.1 of the Agreement;

Particulars

Clause III 1(a).

b. CSFM was required to implement effective risk management policies and procedures in order to identify, measure, manage and monitor on an ongoing basis all risks relevant to the fund's investment strategy;

Particulars

Clause III 2(a).

c. to the extent that CSFM delegated its duties and functions to a third party, it was required to implement appropriate control mechanism and procedures, including a regular reporting process, in order to ensure an effective supervision of that third party.

Particulars

Clause IX, clause XI (12).

62. It was a term of the Virtuoso Management Agreement that CSFM's compliance function must, operating independently, constantly monitor its compliance with the Offering Document and Luxembourg Law in the performance of its duties under the agreement.

Particulars

Clause III 1(a).

63. It was a term of the Virtuoso Management Agreement that CSFM was required to monitor and manage the Virtuoso Parent's liquidity risks and ensure that the liquidity

profile of the Virtuoso Parent complied with its obligations, and in particular that CSFM put in place an appropriate liquidity management system and effect procedures taking into account the investment strategy, the liquidity profile and redemption policy of the Virtuoso Parent.

Particulars

Clause II 5.4.

64. On about 10 January 2020, CSFM and the Virtuoso Parent entered into a further Management Agreement (**2020 Virtuoso Management Agreement**).

Particulars

Management Agreement at CSA.5000.0006.0829.

65. The 2020 Virtuoso Management Agreement replaced the Virtuoso Management Agreement, but the appendix to the Virtuoso Management Agreement remained in force.

Particulars

Clause XI (22).

66. The terms of the Virtuoso Management Agreement as set out above were also included in the 2020 Virtuoso Management Agreement, save that:

a. CSFM's compliance function's monitoring obligations were replaced with obligations that CSFM's compliance function must:

i operating independently, perform an ex-ante due diligence of the Virtuoso Sub-Fund's assets in accordance with the clause II 2.1; and

ii refrain from any transactions which have or could have the effect that the Virtuoso Sub-Fund's assets were not in compliance clause II 2.1.

Particulars

Clause III 1(a).

b. It was also a term of the 2020 Virtuoso Management Agreement that:

i CSFM confirmed to ensure a high level of diligence in the selection and ongoing monitoring of investments in the best interest of the Virtuoso Parent and the integrity of the market; and

ii CSFM was required to implement written policies and procedures on due diligence as well as effective arrangements for ensuring that investment decisions were carried out in compliance with the investment objective

and investment policy of the Virtuoso Parent, taking into consideration and adhering to applicable risk limits.

Particulars

Clause II 5.10.

67. It was a term of the Virtuoso Management Agreement and the 2020 Virtuoso Management Agreement that CSFM's liability towards the fund and its investors shall not be affected by the fact that it had delegated its functions and duties to third parties, or by any further sub-delegation.

Particulars

Clause IX.

68. It was a term of the Virtuoso Management Agreement and the 2020 Virtuoso Management Agreement that the agreement shall be governed by and construed in accordance with the laws of the Grand-Duchy of Luxembourg.

Particulars

Clause XI, 19.

D2 Duties of CSFM with respect to the Virtuoso Sub-Fund under Luxembourg law

Negligence

68A. At all material times, with respect to the Virtuoso Sub-Fund, where CSFM caused damage to the Virtuoso Parent by its negligence, it was liable to the Virtuoso Parent.

Particulars

Articles 1382 and 1383 of the Civil Code of the Grand-Duchy of Luxembourg.

Supervision of delegates

69. At all material times, with respect to the Virtuoso Sub-Fund, where CSFM delegated to a third party the task of carrying out functions on its behalf, CSFM was required to be in a position to monitor effectively at any time the delegated activity.

Particulars

Article 75(e) and (f) of Commission Delegated Regulation (EU) No 231/2013 of 19 December 2012 supplementing the AIFM Directive (the **CDR 231/2013**), supplementing Article 20 of the Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers (**AIFM Directive**), which is transposed into Luxembourg legislation by Article

18(1)(f) of the amended Law of 12 July 2013 on alternative investment fund managers (**AIFM Law**).

Disclosure to investors

70. At all material times, with respect to the Virtuoso Sub-Fund, CSFM was required to:

a. make available to investors a description of the type of assets in which the sub-fund may invest, the techniques it may employ and all associated risks, and any applicable investment restrictions (as well as any material changes to such matters); and/or

b. make available to investors a description of all fees, charges and expenses and of the maximum amounts thereof which are directly or indirectly borne by investors.

Particulars

Article 21(1)(a) and (i) of the AIFM Law.

General principles and organisational requirements

71. At all material times, with respect to the Virtuoso Sub-Fund, CSFM was required to:

a. act with due skill, care and diligence in conducting its activities;

b. act in the best interests of the Virtuoso Parent or investors;

c. have and employ effectively the resources and procedures that were necessary for the proper performance of its business activities; and/or

d. use, at all times, adequate and appropriate human and technical resources that were necessary for the proper management of the fund.

Particulars

Articles 11(1)(a) to (c) and 16 of the AIFM Law, Article 60(2)(e) of the CDR 231/2013, supplementing Articles 12 and 18 of the AIFM Directive which are transposed into Luxembourg legislation by Articles 11 and 16 of the AIFM Law, as well as Article 17(2) of the CDR 231/2013, supplementing Article 12(1) of the AIFM Directive which is transposed into Luxembourg legislation by Article 11(1) of the AIFM Law.

Implementation of adequate risk management systems

72. At all material times, with respect to the Virtuoso Sub-Fund, CSFM was required to:

a. implement adequate risk management systems in order to identify, measure, manage and monitor appropriately all risks relevant to the investment strategy and to which the Virtuoso Parent was or might be exposed; and/or

b. ensure that the risks associated with each investment position and their overall effect on the portfolio could be properly identified, measured, managed and monitored on an ongoing basis.

Particulars

Articles 14(2) and (3)(b) of the AIFM Law and Articles 39(1)(a), (d) and (e), 40(1), 40(2), 40(5), 41(1)(a), 41(2)(b) and (c), 41(3), 44(1), 44(2), 44(3), 45(1)(a) and 45(2) of the CDR 231/2013 supplementing Article 15 of the AIFM Directive which is transposed into Luxembourg legislation by Article 14 of the AIFM Law.

Employment of an appropriate liquidity management system

73. At all material times, with respect to the Virtuoso Sub-Fund, CSFM was required to employ an appropriate liquidity management system and adopt procedures to enable it to monitor liquidity risk and ensure that the liquidity profile of the investments complied with underlying obligations.

Particulars

Article 15(1) of the AIFM Law, and Article 47(1)(d) of the CDR 231/2013 supplementing Article 16 of the AIFM Directive which is transposed into Luxembourg legislation by Article 15 of the AIFM Law.

Preferential treatment and management of conflicts of interest

74. At all material times, with respect to the Virtuoso Sub-Fund, CSFM was required to:

a. ensure that no investor obtained preferential treatment, unless such preferential treatment was disclosed;

b. take all reasonable steps to avoid conflicts of interest and, when they could not be avoided, to identify, manage and monitor and, where applicable, disclose those conflicts of interest in order to prevent them from adversely affecting the interests of the Virtuoso Parent and investors;

c. maintain and operate effective organisational and administrative arrangements with a view to taking all reasonable steps designed to identify, prevent, manage and monitor conflicts of interest in order to prevent them from adversely affecting the interests of the Virtuoso Parent and investors; and/or

d. where organisational arrangements made by CSFM to identify, prevent, manage and monitor conflicts of interest were not sufficient to ensure, with reasonable confidence, that risks of damage to investors' interests will be prevented, clearly disclose the general nature or sources of conflicts of interest to the investors before undertaking business on their behalf, and develop appropriate policies and procedures.

Particulars

Articles 11(1) last sub-paragraph, 11(1)(d), 13(1) second sub-paragraph and 13(2) of the AIFM Law, and Article 35(1) of the CDR 231/2013, supplementing Article 14 of the AIFM Directive which is transposed into Luxembourg legislation by Article 13 of the AIFM Law.

Valuation of assets

75. At all material times, with respect to the Virtuoso Sub-Fund, CSFM was:

a. required to ensure that appropriate and consistent procedures were established so that a proper and independent valuation of the assets could be performed;

b. required to perform the valuation impartially and with all due skill, care and diligence; and

c. responsible for the proper valuation of assets, the calculation of the net asset value and the publication of that net asset value.

Particulars

Article 67(1) and (2) of the CDR 231/2013, supplementing Article 19 of the AIFM Directive, which is transposed into Luxembourg legislation by Article 17(1) of the AIFM Law.

Article 71(1) and (3) of the CDR 231/2013, supplementing Article 19 of the AIFM Directive, which is transposed into Luxembourg legislation by Article 17(8) and (10) of the AIFM Law.

Article 60(2)(c) of the CDR 231/2013, supplementing Articles 12 and 18 of the AIFM Directive which are transposed into Luxembourg legislation by Articles 11 and 16 of the AIFM Law.

Best execution

75A. As all material times, with respect to the Virtuoso Sub-Fund, CSFM was:

a. required to act in the best interests of the sub-fund or the investors in the sub-funds it manages when executing decisions to deal on behalf of the sub-fund in the context of the management of the portfolio;

b. whenever it bought or sold financial instruments or other assets for which best execution was relevant, and for the purposes of sub-paragraph (a) above, required to take all reasonable steps to obtain the best possible result for the sub-fund or investors in the sub-fund, taking into account price, costs, speed, likelihood of execution and settlement, size, nature or any other consideration relevant to the execution of the order;

c. required to establish and implement effective arrangements for complying with the obligations referred to in sub-paragraphs (a) and (b), and in particular, required to establish in writing and implement an execution policy to allow the sub-fund and its investors to obtain, for sub-fund orders, the best possible result in accordance with sub-paragraph (b);

d. required to monitor on a regular basis the effectiveness of its arrangements and policy for the execution of orders with a view to identifying and, where appropriate, correcting any deficiencies;

e. required to review its execution policy on an annual basis, and also carry out a review whenever a material change occurred that affected its ability to continue to obtain the best possible result for the sub-funds.

Particulars

Article 27 of CDR 231/2013, supplementing Articles 12 and 15 of the AIFM Directive which are transposed into Luxembourg legislation by Articles 11 and 14 of the AIFM Law.

D3 The Portfolio Management Agreement – Virtuoso Sub-Fund

76. On about 24 March 2017, CSAM and CSFM entered into a Portfolio Management Agreement (**Portfolio Management Agreement**).

Particulars

Portfolio Management Agreement dated 24 March 2017: CSA.0001.0011.1292. A version of the appendix as at 22 May 2017 is exhibited to the affidavit of Ms Egelhof dated 25 October 2024 (**Egelhof Affidavit**) at CSA.0001.0011.1299.

77. The Portfolio Management Agreement applied to services provided by CSAM with respect to the Virtuoso Sub-Fund.

78. With respect to the Virtuoso Sub-Fund, CSFM was a party to the Portfolio Management Agreement in its capacity as AIFM.

79. By the Portfolio Management Agreement:

a. CSFM appointed CSAM as Portfolio Manager to render portfolio management services and to invest or reinvest the assets of the Virtuoso Sub-Fund on a fully discretionary basis, subject to investment guidelines as communicated by CSFM;

b. CSFM authorised CSAM to effect, in relation to the Virtuoso Sub-Fund, any transactions pertaining to the Sub-Fund's investment portfolio;

c. CSAM accepted its appointment by CSFM with respect to the Virtuoso Sub-Fund and the obligations set out in the agreement; and

d. CSAM was required to perform its services under the Portfolio Management Agreement with respect to the Virtuoso Sub-Fund under the supervision and responsibility of the Board of Directors of CSFM.

Particulars

Clause 1.

80. It was a term of the Portfolio Management Agreement that CSAM must:

a. act strictly in accordance with the legal and regulatory requirements applicable to the Virtuoso Sub-Fund and CSFM;

b. act in accordance with applicable laws and regulations in exercising its mandate with respect to the Virtuoso Sub-Fund.

Particulars

Article 2.1. See also Article 3.1

81. It was a term of the Portfolio Management Agreement that CSAM must act strictly in accordance with the investment policies and applicable restrictions on investments set out in the prospectus / private placement memorandum ("Offering Document") of the Virtuoso Sub-Fund as periodically reviewed by the Virtuoso Sub-Fund and CSFM and the current internal guidelines for the Virtuoso Sub-Fund.

Particulars

Article 2.1. See also Article 3.1

82. It was a term of the Portfolio Management Agreement that CSAM was required to exercise its mandate with respect to the Virtuoso Sub-Fund with the due care customary to the profession.

Particulars

Article 3.1.

83. It was a term of the Portfolio Management Agreement that:

a. CSAM was required to constantly monitor the Virtuoso Sub-Fund's assets in accordance with Article 2.1;

Particulars

Article 3.6.

b. CSAM was required to ensure a high level of diligence in the selection and ongoing monitoring of investments in the best interests of the Virtuoso Parent and the Virtuoso Sub-Fund and the integrity of the market;

Particulars

Article 4.12.

c. CSAM had implemented written policies and procedures on due diligence as well as effective arrangements for ensuring that investment decisions were carried out in compliance with the investment objective and investment policy of the Virtuoso Sub-Fund, taking into consideration and adhering to applicable risk limits;

Particulars

Article 4.12.

d. risk management activities (including with respect to the Virtuoso Sub-Fund) needed to be performed reliably, professionally and effectively and CSAM undertook to establish, together with CSFM, methods to ensure the ongoing assessment of the standards of performance to ensure compliance thereof;

Particulars

Article 4.12.

e. CSAM undertook to have in place and apply a best execution policy to ensure that all reasonable steps were taken to seek to obtain the best possible result for the Virtuoso Parent, Virtuoso Sub-Fund and investors, when providing CSFM with portfolio management services under the agreement, taking into account the price, cost, speed, likelihood of execution and settlement, order size and nature, or any other consideration relevant to the execution of the order;

Particulars

Article 4.10, Article 4.13.

f. in the event CSAM was permitted by CSFM to delegate any services with respect to the Virtuoso Sub-Fund to a third party, CSAM was responsible to ensure that the third party complies with the best execution principles outlined in Article 4.13; and

Particulars

Article 4.13.

g. CSAM had adopted adequate and effective arrangements, processes and techniques to measure and manage risks relating to the investments of the Virtuoso Sub-Fund and ensure compliance with legal and regulatory requirements.

Particulars

Article 4.14.

84. It was a term of the Portfolio Management Agreement that it was subject to Luxembourg law.

Particulars

Article 13.

D4 Duties of CSAM with respect to the Virtuoso Sub-Fund under Luxembourg and Swiss law

84A. At all material times, with respect to the Virtuoso Sub-Fund, where CSAM caused damage to the Virtuoso Parent by its negligence, it was liable to the Virtuoso Parent.

Particulars

Articles 1382 and 1383 of the Civil Code of the Grand-Duchy of Luxembourg.

84B. At all material times, with respect to the Virtuoso Sub-Fund, where CSAM was performing obligations under the Portfolio Management Agreement:

a. it had a duty of care in the performance of those obligations; and

b. it was liable for the diligent and faithful performance of the business entrusted to it.

Particulars

Article 398 (1) and (2) of the Swiss Code of Obligations.

85. At all material times, with respect to the Virtuoso Sub-Fund, CSAM:

a. was required to have an appropriate organisational structure to ensure compliance with legal obligations;

Particulars

Article 14(1)(c) of the Swiss Collective Investment Schemes Act (**CISA**) (SR 951.31). This CISA provision was no longer directly applicable to CSAM after a one year transition period commencing on 1 January 2020, at the end of which the "FinIA" and "FinSA" (as defined below) became applicable.

b. had a duty of loyalty, which required it to act independently and exclusively in the interests of investors;

Particulars

Article 20(1)(a) of the CISA.

c. had a duty of due diligence, which required it to implement the organisational measures necessary for proper management;

Particulars

Article 20(1)(b) of the CISA.

ca. had a duty to provide information, which required it to act with transparency, to provide appropriate financial information and disclose all charges and fees to investors and to notify investors of any compensation received in the form of commissions, brokerage fees and other soft commissions in a full, truthful and comprehensible manner;

Particulars

Article 20(1)(c) of the CISA.

d. was required to take all necessary precautions to ensure that all duties in relation to its business activities were performed properly;

Particulars

Article 20(3) of the CISA.

e. was required to ensure that it had proper and appropriate risk management, an internal control system and compliance covering its business activities;

Particulars

Article 12a(1) of the Swiss Collective Investment Schemes Ordinance (**CISO**) (SR 951.311). The CISO was an ordinance which accompanied the CISA, which was in force at the same time as the CISA.

ea. was required to ensure the proper conduct of portfolio and risk management;

Particulars

Article 18a(1) of the CISA.

eb. was required to ensure it had proper and appropriate risk management, an internal control system (ICS) and compliance covering its entire business;

Particulars

Article 12a(1) of the CISO.

f. was required to organise its risk management in such a way that all material risks could be adequately identified, assessed, controlled and monitored;

Particulars

Article 12a(2) of the CISO.

fa. was required to separate the functions of risk management, ICS and compliance in functional and hierarchical terms from the operating units, in particular from the investment decisions function:

Particulars

Article 12a(3) of the CISO; Article 41(3) of the Swiss Financial Institutions Ordinance.

g. was required to take effective organisational and administrative measures to identify, prevent, settle and monitor conflicts of interest in order to prevent the latter from harming the interests of the investors, and where conflicts of interest could not be avoided, disclose those conflicts to investors;

Particulars

Article 32b of the CISO.

h. was required to establish appropriate corporate management rules and be organised in such a way that it can fulfil its statutory duties, and/or identify, measure, control and monitor its risks, including legal and reputational risks, and organise effective internal controls;

Particulars

Article 9 of the Swiss Financial Institutions Act (**FinIA**) (SR 954.1).

i. was required to have an appropriately defined risk management system in place as well as an effective internal control structure to ensure, among other requirements, compliance with legal and internal provisions;

Particulars

Article 21(1) of FinIA.

j. was required to organise its risk management in such a way that all the main risks could be identified, assessed, controlled and monitored;

Particulars

Article 12(4) of the Swiss Financial Institutions Ordinance (**FinIO**) (SR 950.11). The FinIO was an ordinance which accompanied the FinIA, which was in force at the same time as the FinIA.

k. was required to have an appropriately defined risk management system in place as well as an effective internal control structure to ensure compliance with legal and internal provisions; and, or alternatively

Particulars

Article 41(1) of the FinIO

l. was required to take appropriate organisational measures to prevent conflicts of interest that could arise through the provision of financial services or any disadvantages for clients as a result of conflicts of interest, and if disadvantages for clients cannot be excluded, that possibility was required to be disclosed to them;

Particulars

Article 25(1) and (2) of the Federal Financial Services Act (**FinSA**) (SR 950.1).

85A. At all material times, to the extent CSAM breached a provision of the CISA, the FinSA, or the FinIA with respect to the Virtuoso Sub-Fund causing loss to the Virtuoso Parent, it was liable to pay compensation to the Virtuoso Parent.

Particulars

By operation of Article 145 and Articles 41 and 55 of the Swiss Code of Obligations, and Article 146 and Articles 50 and 51 of the Swiss Code of Obligations.

E DUE DILIGENCE AND PRODUCT DEVELOPMENT FAILURES AT THE LAUNCH OF THE SUB-FUND

E1 Failures in due diligence at or about the launch of the Virtuoso Sub-Fund

86. In about January 2017, CSAM (and, or in the alternative, CSFM) decided that it would perform a "light" due diligence process on Greensill.

Particulars

i CSFM formed an initial view that it was not required to perform any due diligence on Greensill, because it considered that it would be a noteholder with no direct link to Greensill: email from Ms Egelhof to Mr Reiter (of CSFM), copying Pascal Piech (of CSFM) dated 11 January 2017: CSA.5000.0002.0123.

ii In response to this initial view, the compliance team with CSFM stated to the effect that due diligence ought to be performed on Greensill and the investment structure underlying the notes: email from Mr Reiter to Ms Egelhof, copying Mr Piech dated 13 January 2017 at CSA.5000.0002.0123.

iii CSAM (and, or in the alternative, CSFM) then formed the view that potentially it would need to run a "light" due diligence on Greensill: email from Mr Mossdorf to Mr Mathys, Mr Hehenkamp and Mr Lukas Haas (of CSAM) on 20 January 2017: CSA.5000.0003.0079.

iv Further particulars may be provided following evidence and disclosure.

87. In about March 2017:

a. a decision was made by representatives of Credit Suisse (including CSAM and/or CSFM) that the proposed Virtuoso Sub-Fund was not required to be subject to its "New Business" approval processes because they considered there were no new significant types of risks or issues associated with it; and

b. the Virtuoso Sub-Fund was instead approved as "Business As Usual".

Particulars

See CSA.5000.0002.0290, CSA.5000.0002.1040, CSA.7000.0003.1810, CSA.7000.0003.1502.

The decision was made by Credit Suisse representatives sitting on its New Product Board. A New Product Board Memorandum with respect to the Virtuoso Sub-Fund is at CSA.5000.0002.0370.

Further particulars may be provided following evidence and disclosure.

88. On about 11 April 2017, representatives of the Credit Suisse Group (including CSAM and/or CSFM) received a memorandum prepared by Linklaters.

Particulars

At this stage, only a fully redacted version of the memorandum itself has been discovered by UBS. Further particulars may be provided following evidence and disclosure.

89. From about mid-April 2017 until about 5 May 2017, Greensill completed a table, with assistance from representatives of CSFM and/or CSAM, which was styled as a "Due Diligence Questionnaire" for the Virtuoso Sub-Fund.

Particulars

See, for example, CSA.5000.0003.0184 attaching CSA.5000.0003.0185, CSA.5000.0003.0186; CSA.5000.0003.0190 attaching CSA.5000.0003.0191, CSA.5000.0003.0192, CSA.5000.0003.0193; CSA.5000.0002.0401 attaching CSA.5000.0002.0402, CSA.5000.0002.0403, CSA.5000.0002.0404, CSA.5000.0002.0405. The Due Diligence Questionnaire was signed by Ludwig Sels of Greensill: CSA.5000.0001.1091.

See also written ruling of the Swiss Financial Market Supervisory Authority (**FINMA**) dated 9 December 2022 in Credit Suisse matters concerning Greensill Supply Chain Finance Funds (**FINMA Ruling**): CSA.0001.0011.7753 at 0013 ([30]).

90. In the premises pleaded at paragraphs 14 to 50 and 86 to 89, and to the extent CSAM (and, or in the alternative, CSFM) performed due diligence at about the time when the Virtuoso Sub-Fund was launched or shortly thereafter:

a. there was no documented guidance or rule at CSAM and/or CSFM as to the level of due diligence which was required prior to investments with Greensill;

b. the due diligence was not conducted until after the Offering Memoranda had been issued to investors;

c. the due diligence was not completed before the April 2017 Virtuoso Warehousing Letter was agreed;

ca. the due diligence was not completed before the New Product Board considered the Virtuoso Sub-Fund;

d. the due diligence was not completed before the Virtuoso Sub-Fund had been launched;

e. the due diligence was not completed before the Virtuoso Sub-Fund had already started to acquire notes;

f. the due diligence which was performed was “light”; and

g. the due diligence which was performed was inadequate.

Particulars

The due diligence review was limited to Greensill completing an 18-page questionnaire and answering a few clarification questions. Among other things, the bank did not question any information regarding insurance cover, there were no references to defaulted debtors, and there were no findings or enquiries regarding Greensill’s answers to questions.

The due diligence which was performed was inadequate having regard to:

i the fact that this was the first occasion where Greensill and Credit Suisse entities had developed a fund together, where the opportunity for the sub-fund and the proposed investment structure originated with Greensill;

ii the fact that supply chain finance was an investment type with which Credit Suisse’s Luxembourg-based fund, CSFM and CSAM did not have previous experience;

iii the novel investment structure developed for the sub-fund, pursuant to which, *inter alia*, CSAM was not to exercise any discretionary investment management powers in its role as Portfolio Manager, and it was not proposed that Greensill or Lagoon Park would perform its own due diligence on relevant obligors (as described, at that stage, in the Lagoon Park Base Memorandum);

iv the level of control which it was proposed Greensill would have in the investment structure, including locating debtors, acquiring receivables; assigning payment obligations into special purpose vehicles, securitising the payment obligations, monitoring debtors, selecting insurers and negotiation of insurance;

(iva) the level of control which it was proposed Greensill would have across the investment structure, and the reliance on only Greensill to perform nearly every facet of the investment process, meant that investors would be exposed if Greensill itself came under financial stress or collapsed;

v the fact that the Virtuoso Sub-Fund investment structure was to be highly complex, using several special purpose vehicles for the securitisation of debt securities with links to various foreign obligors and legal systems;

vi the approach which was to be adopted to the use of insurance by the funds, which had not been adopted previously;

vii the fact that the investment structure had the risks set out in the March 2017 Offering Memorandum as set out at paragraphs 38 and 40 above, including the risks to the sub-fund arising from concentration of issuer, the credit risk of obligors, concentration of obligors, and/or insurance not paying on time or in full;

viii the nature of Greensill's business, including:

i. the primary sources of trade receivables acquired by (or likely to be acquired in the future by) Greensill (such as entities linked to Mr Gupta);

ii. its managers;

iii. key investors in Greensill and its sources of funding;

iv. the links between GAM and Greensill, and between Mr Solo and Greensill;

ix the due diligence did not extend to a credit analysis of the financial position of entities within GCUK or other entities within the Greensill group;

x the fact that CSAM and/or CSFM were informed in the Due Diligence Questionnaire that Greensill did not have its own firm wide risk management system because it was a small, unregulated firm which as part of its growth had concentrated on getting its business up and running: see CSA.5000.0001.1091 at p 0013; and

xi the due diligence did not extend to an analysis of the indemnity proffered by GCUK, including the value of that indemnity having regard to GCUK's financial position and its capital base, and the reasons why GCUK in the position of finance intermediary would be prepared to offer such an indemnity (e.g. see the indemnity at CSA.5000.0001.0041).

The due diligence was also inadequate having regard to:

xii the unregulated nature of Greensill Capital (other than to the extent it was regulated from an AML perspective);

xiii the policies which were under development (e.g. remuneration, internal audit) or absent (e.g. conflicts of interest); and

xiv indications from Greensill that "the Group Wide Risk Management process is run from our German Bank", and "risks are covered in the [Greensill] Bank's Group Wide Risk Management Process (which we are not at liberty to disclose due to confidentiality restrictions) which covers all relevant risks that Greensill faces on a daily basis": CSA.5000.0004.8489.

See also ~~draft~~ report by "Mazars" (a Luxembourg firm specialising in audit, accountancy, advisory, and tax services, which was engaged by the CSSF following the collapse of Greensill) (**Final Mazars Report**) at p 12 (CSA.0001.0012.0569).

See also FINMA Ruling: CSA.0001.0011.7753 at 0013 ([30]); Wenger Plattner Report dated 30 July 2022: CSA.5000.0007.0716 ~~CSA.0001.0011.7751~~ at [30]-[33].

See the Deloitte Report at [3.2.3]-[3.2.4], [3.3.1], [3.16.1], [6.3.5], [6.6.1], [6.6.5]-[6.6.7], [6.7.1]-[6.7.3].

Further and better particulars may be provided following evidence and disclosure.

E2 Failures in product development and approval for the launch of the Virtuoso Sub-Fund

91. Further or in the alternative:

a. in about February 2017, representatives of the Credit Suisse Group (including CSAM and/or CSFM) concluded that the Virtuoso Sub-Fund was not required to be subjected to its "New Business" approval processes, because they considered there were no new significant risks or issues associated with it; and

b. the Virtuoso Sub-Fund should have been subjected to Credit Suisse's "New Business" approval processes because there were new significant types of risks or issues associated with it.

Particulars

The matters described in the particulars to paragraph 90 are repeated.

See further FINMA Ruling: CSA.0001.0011.7753 at 0063 ([187]-[190]); Wenger Plattner Report dated 30 July 2022: ~~CSA.0001.0011.7751~~ CSA.5000.0007.0716 at [30]-[33].

See the Deloitte Report at [3.2.3]-[3.2.4], [3.3.1], [3.16.1], [6.3.5], [6.6.1], [6.6.5]-[6.6.7], [6.7.1]-[6.7.3].

Further particulars may be provided following evidence and disclosure.

92. Further or in the alternative, the Virtuoso Sub-Fund was subjected to a flawed "New Product" process prior to its launch.

Particulars

The matters described in the particulars to paragraph ~~90~~ 91 are repeated. There was, *inter alia*, no in depth discussion of the novel insurance concept and the special investment process proposed for the Virtuoso Sub-fund. Further, at the meeting of the New Product Board that agreed to the launch of the Virtuoso Sub-Fund, more than half of its members were absent, including Mr Degen and Mr Mathys, as sponsors of the new fund. See further FINMA Ruling: CSA.0001.0011.7753 at 0012, 0013 and 0063 ([27]-[29], [187]-[194]).

Further, CSFM failed to identify and assess all significant risks relating to the activities and operations of the sub-funds, and its approval processes did not allow for an adequate coverage and mitigation of the risks relating to the activities of the Virtuoso Sub-Fund and an approval decision done on a fully knowledgeable basis. Further, risk management and compliance were only involved to a limited extent in the approval of the Virtuoso Sub-Fund: see Final Mazars Report under the heading "1.2 Workstream 2: Approval of new business relationships and new products" (CSA.0001.0012.0569).

Further particulars may be provided following evidence and disclosure.

92A. Further or in the alternative:

a. the Virtuoso Sub-Fund was not subject to a sufficiently detailed and rigorous product development and approval process prior to the launch of the sub-fund; and

b. the Virtuoso Sub-Fund should have been subject to a detailed and rigorous product development and approval process prior to the launch of the sub-fund.

Particulars

The matters described in the particulars to paragraph 92 are repeated.

Further particulars will be provided following expert evidence.

92B. Further or in the alternative, if CSAM (and/or CSFM) had conducted an adequate due diligence process and/or had conducted an adequate product development and approval process prior to the launch of the Virtuoso Sub-Fund, it would have identified conflicts of

interests between Greensill and the sub-fund which were inherent in the design of the investment process for the Virtuoso Sub-Fund.

Particulars

The matters described in the particulars to paragraph 92 are repeated.

Further particulars will be provided following expert evidence.

92C. Further or in the alternative, if CSAM (and/or CSFM) had conducted an adequate due diligence process and/or had conducted an adequate product development and approval process prior to the launch of the Virtuoso Sub-Fund, it would have identified the relationship between Greensill and Mr Gupta (and/or the entities associated with him), and acting reasonably, would not have agreed to any investment process where it had exposure to Mr Gupta.

Particulars

The matters described in the particulars to paragraph 92 are repeated.

See paragraphs 28 to 31 above.

92D. Further or in the alternative, if CSAM (and/or CSFM) had conducted an adequate due diligence process and/or had conducted an adequate product development and approval process prior to the launch of the Virtuoso Sub-Fund, it would never have entered into an investment process which was so reliant on Greensill and which gave it very little control or visibility over how investor funds were being used by Greensill.

Particulars

As to the reliance on Greensill, see the Deloitte Report at [3.2.1], [3.5.4], [6.29.1]-[6.29.2]. See also sections HA1 and HA2 below.

See interview by Walder Wyss and Deloitte of Mr Asche on 2 July 2021 (CSA.0001.0012.2845) at Q26: “there is absolutely no credit analysis… this should have been addressed in the design of the product”.

The matters described in the particulars to paragraph 92 are repeated.

Further particulars may be provided following expert evidence.

92E. Further or in the alternative, if CSAM (and/or CSFM) had conducted an adequate due diligence process and/or had conducted an adequate product development and approval process prior to the launch of the Virtuoso Sub-Fund, that process would have resulted in the Virtuoso Sub-Fund not being launched at all, or alternatively being launched with a fundamentally different investment process.

Particulars

The matters described in paragraphs 91 to 92D are repeated.

Further particulars will be provided following expert evidence.

EA HIGH CASH LEVELS

92F. By no later than March 2019, CSAM was aware that high cash levels in the supply chain finance funds was leading to underperformance.

Particulars

Email from Lukas Haas to Lex Greensill and Ludwig Sels (copied to Michel Degen, Luc Mathys and David Solo) dated 12 March 2019 (CSA.7000.0001.6991).

92G. By about April 2019, CSAM had held conversations with Greensill in which:

a. CSAM raised the usage and cash holdings in the supply chain finance funds due to the underperformance of the funds; and

b. Greensill promised CSAM to use a higher quota of the fund going forward.

Particulars

Email from Luc Mathys to Ashish Jain, Eleonore Dachicourt (AM Products for Non-Japan Asia) and Lukas Haas dated 3 April 2019 (CSA.5000.0002.2598).
Email from Lukas Haas to Luc Mathys dated 15 May 2019 (CSA.5000.0002.2598).

92H. In about June 2019, Credit Suisse had introduced a special subscription procedure, referred to as a ‘soft-close’, of the Virtuoso Sub-Fund.

Particulars

Document titled 'Supply Chain Finance Fund Newsletter' dated June 2019 (CSA.5000.0002.3011).

92I. On or about 14 August 2019, CSAM received a query from a potential investor about the elevated cash levels in the Nova Sub-Fund. CSAM responded that it had raised this issue with Greensill and that it was 'confident to close the gap'.

Particulars

Email from Lukas Haas to Ashish Jain (Credit Suisse), copying Luc Mathys and Michael Levin (Credit Suisse) dated 14 August 2019 (CSA.7000.0001.7940 at 0020).

See also email from Lukas Haas to Lex Greensill, Ludwig Sels, Ivan Jesensky, Brett Downes, Michel Degen and Adam Milenkovic dated 25 October 2019 with the subject 'FW: Greensill/CSAM Meeting- Follow up' (GCU.0005.0019.5012).

92J. In about November 2019, Credit Suisse:

a. was receiving questions and concerns from investors in the sub-funds due to underperformance and elevated cash levels in the sub-funds;

b. was seeking to increase the notes entering the sub-funds;

c. had lost two large clients of roughly USD 90 million and USD 80 million from the Virtuoso Sub-Fund; and

d. was expecting outflows due to the performance issues.

Particulars

(a) Email chain dated 11 to 12 November 2019 (GCU.0005.0019.5013):

a. Email from Mikael Rancic (Credit Suisse (Suisse) SA, Private & Corporate Clients) to Lukas Haas dated 11 November 2019.

b. Email from Luc Mathys to Lex Greensill and Michel Degen (copied to Lukas Haas and Ludwig Sels) dated 12 November 2019.

c. Email from Lukas Haas to Ludwig Sels (copied to Luc Mathys) dated 12 November 2019.

(b) Email from Lukas Haas to Ludwig Sels (copied to Lex Greensill and Luc Mathys) dated 26 November 2019 with the subject 'SCF Funds – Performance Issue' (GCU.0005.0019.5012, attaching GCU.0005.0019.5013 and GCU.0005.0019.5014).

92K. In Marchy 2020:

a. the Supply Chain Finance Funds had significant cash levels;

b. the 'reasonably good performance' of the funds was achieved 'in particular through 'over-compensation' on the part of Greensill'; and

c. CSAM had not seen a 'new "plain vanilla" buyer-confirmed SCF programme with significant volumes for a long time'.

Particulars

Email from Lukas Haas to Luc Mathys dated 3 May5 March 2020 (CSA.7000.0002.3775).

F THE APPROACH TO INSURANCE

F1 The high concentration of insurance

93. By no later than about September 2018, CSAM had identified that the insurance exposure of the Virtuoso Sub Fund was highly concentrated around IAL, with the insurance exposure to IAL being about 52.4%.

Particulars

Email from Mr Mathys to Mr Solo, copying Mr Degen and Mr Haas, dated 17 September 2018: CSA.5000.0001.0192. Further particulars may be provided following evidence and disclosure.

94. In about October 2018, Credit Suisse Group's risk management function performed an analysis on the supply chain funds and concluded that they needed to implement more strict investment guidelines in terms of insurance concentration limits.

Particulars

This analysis is referred to in email from Mr Mathys to Mr Greensill, copying Mr Degen, Mr Solo, Mr Sels and Mr Haas dated 22 October 2018: CSA.5000.0003.1280. As far as Marsh is presently aware, documents recording the analysis by Credit Suisse risk management referred to by Mr Mathys in this email have not been discovered to date. Further particulars may be provided following evidence and disclosure.

95. By no later than about October 2018:

a. CSAM had identified that for the Virtuoso Sub-Fund, "BCC (Insurance Australia)" was covering about 65% of the credit risk of the underlying portfolio;

b. CSAM had formed the view that this was breaching the obligor limit in the Offering Memorandum for the Virtuoso Sub-Fund of 30%;

c. investors in the Virtuoso Sub-Fund were expressing concerns to CSAM about its high concentration to one insurance company; and

d. CSAM proposed a reduction in the maximum insurance concentration to between 20% to 30% once the fund was US $2 billion or more in size (with the precise maximum exposure dependent on the size of the fund).

Particulars

See email from Mr Mathys to Mr Greensill, copying Mr Degen, Mr Solo, Mr Sels and Mr Haas dated 22 October 2018: CSA.5000.0003.1280. See draft presentation dated 30 October 2018: CSA.5000.0001.0244 (at page

_0002). That presentation was attached to an email from Mr Haas to Mr Mathys, Mr Adam Milenkovic and Mr Degen dated 30 October 2018: CSA.5000.0001.0243. Further particulars may be provided following evidence and disclosure.

96. Notwithstanding the matters pleaded in the preceding paragraph, CSAM (and, or alternatively, CSFM) did not require Greensill to reduce the maximum insurance concentration of the Virtuoso Sub-Fund to IAL/BCC as proposed.

Particulars

Email chain in March 2021 in which Philipp Wehle asks for 'the internal directive from 2019' which required the reduction of the funds' reliance on individual credit insurers. Michel Degen responds: 'According to my knowledge there were never such guidelines introduced…' (CSA.7000.0002.3438)

See also letter from CSFM to Mazars dated 18 August 2023 (CSA.0001.0012.0459).

96AA. During 2019:

a. concerns about insurance concentration risk were raised internally at CSAM;

b. specific guidelines to restrict and reduce insurer concentration were discussed, but were never implemented.

Particulars

See Deloitte Report at [6.52.3]-[6.52.4].

96AB. On or around 20 April 2020, CSAM received an inquiry from Duncan Mavin (Dow Jones) regarding the insurance concentration risk of the sub-funds to Tokio Marine, noting that IAL had sold its trade credit insurance business to Tokio Marine.

Particulars

Email from Anitta Tuure to Michel Degen, Luc Mathys, James Quinn and Andreas Kern dated 20 April 2020 (CSA.5000.0002.4780).

96AC. On or about 25 August 2020, CSAM received a further inquiry from Mr Mavin regarding, *inter alia*, Mr Mavin's:

a. understanding that the insurance policies held with Tokio Marine's subsidiary were ending soon and that Tokio Marine did not want to renew the policies;

b. belief that Mr Greensill was in the market trying to find new insurance policy providers but was struggling to do so;

c. understanding that Greensill was to pay Credit Suisse in the event of a default, after which Greensill would claim on the policy; and

d. view that Greensill's possibility of collecting returns on the policies was decreasing as the sub-funds continued to experience defaults, including NMC Healthcare, and this could have a negative impact on the sub-funds.

Particulars

Email from Annitta Tuure to Eric Varvel, Michel Degen and Luc Mathys, copying other Credit Suisse personnel, dated 25 August 2020 (CSA.6000.0001.1106).

96AD. On about 25 August 2020:

a. Mr Degen suggested that Credit Suisse should prepare exiting from the sub-funds;

b. Mr Varvel suggested that Credit Suisse should exit the sub-funds; and

c. after speaking with Philipp Wehle (IWM CEO) and Romeo Cerutti (CS Group General Counsel), Mr Varvel (and indirectly, Mr Degen) were told that the sub-funds had Credit Suisse's backing, and the relationship with Greensill should continue.

Particulars

Text message from Mr Degen to Mr Varvel: "See mail from Romeo… maybe we should though prepare the exit…. if the bank does not want the business, Greensill and we are also happy to be part of a solution it the banks feels so…".

See interview by Walder Wyss and Deloitte with Mr Degen on 24 July 2021 (CSA.0001.0012.2855) at Q17-Q19.

See interview by Walder Wyss and Deloitte with Mr Varvel on 16 July 2021 (CSA.0001.0012.2944) at Q91.

See Deloitte Report at [3.11.3] and [6.37.4], which refer to Mr Degen raising with Mr Varvel whether the time had come to end the Greensill relationship, either through selling the SCF Funds or closing them down, and Mr Varvel responding that he had separately discussed with Phillip Wehle (IWM CEO) and Romeo Cerutti (CS Group General Counsel) and the SCF Funds had the Bank's backing and should continue.

96AE. In about October 2020, one of the remaining largest insurance providers to the sub-funds, Euler Hermes, terminated its agreement with GCUK, and attempts by GCUK to add more diversity to the insurance coverage were unsuccessful.

Particulars

See the descriptions in the Deloitte Report at [2.1.11], [3.7.2], [6.52.4].

That Euler Hermes would no longer be providing insurance to GCUK was reported in the

Wall Street Journal article: "SoftBank-Backed Greensill Looks to Raise Fresh Capital" dated 8 October 2020 (CSA.5000.0003.6800).

97. Throughout the period from about October 2018 to February 2021, the Virtuoso Sub-Fund continued to have a high insurance concentration to IAL/Tokio Marine.

Particulars

Letter from Rudolf Kömen to CSSF dated 11 March 2021 (CSA.7000.0002.8784) providing a table breakdown of exposure to each insurer.

F1A The nature of the insurance policy

97A. On about 15 September 2016, Mr Solo recommended to representatives of CSAM that the Virtuoso Sub-Fund should be named as beneficiary in the insurance policy in order to avoid risks vis-à-vis Greensill Bank.

Particulars

Wenger Plattner Report 30 July 2022: CSA.0001.0007.0716 at [454]. FINMA Ruling: CSA.0001.0011.7753 ~~CSA.5000.0007.0715~~ at [98].

See email from Mr Solo to Mr Hehenkamp dated 15 September 2016: CSA.5000.0008.3033; CSA.5000.0008.3520.

97B. The Virtuoso Sub-Fund was not named as beneficiary in insurance policies, but instead was purported to be named as a "Loss Payee".

97C. To the extent the Virtuoso Sub-Fund was named as a "Loss Payee" in insurance policies, that exposed it to risks with respect to the conduct and solvency of Greensill Bank.

F1B Disclosures to investors on insurance

97D. The information provided to investors in the Virtuoso Sub-Fund:

a. did not contain reference to any risks for insurance cover arising from the (purported) status of the Virtuoso Sub-Fund as a “Loss Payee”;

b. in marketing materials after April 2019, named Tokio Marine and IAL as two separate insurers, even though Tokio Marine had acquired IAL’s interest in the BCC underwriting agency from IAL by that time, which gave a false picture of the diversification of insurers; and

c. in a monthly newsletter for the Virtuoso Sub-Fund, listed a large number of insurers under the heading "Insurers Allocation" in circumstances where more than half of those insurers insured no notes or only a small proportion of notes, conveying an impression of much greater diversification of insurers than was in fact the case.

Particulars

FINMA Ruling: CSA.0001.0011.7753 at 0023 ([57]), 0078 ([245]-[246]). As far as Marsh is aware, UBS has not discovered the monthly newsletter referred to in the FINMA Ruling to date.

See also section 2.4 of the document published by the Luxembourg financial regulator, the Commission de Surveillance du Secteur Financier or “**CSSF**”, entitled “Annex II: Breaches that lead to administrative sanctions pursuant to the AIFM Law” (**CSSF Breach Annexure**) (CSA.7000.0003.3919).

See the Deloitte Report at [3.7.2], [3.9.2], [6.70.5], [6.73.2].

F2 Failures with respect to the approach to insurance

98. To the extent insurance was arranged with respect to investments by the Virtuoso Sub-Fund:

a. CSAM (and/or CSFM) were aware that there was no guarantee to the investors in the sub-fund that, in the event of an obligor (i.e., buyer) (or account receivables supplier or seller or where applicable their guarantor) defaulting, the insurer would be able to cover in full or in part the notes' expected payment to the sub-fund;

Particulars

See the Virtuoso Sub-Fund Offering Memoranda as pleaded at paragraphs 38.f and 40 above. Further particulars may be provided following evidence and disclosure.

b. CSAM (and/or CSFM) were aware that to the extent a note was insured, the success of each investment made by the sub-fund in the notes (or similar investment instruments) relied ultimately upon either the obligor (i.e. buyer) (or account receivables supplier or seller or where applicable their guarantor) or the insurer under the associated insurance contract paying in full and on time;

Particulars

See the Virtuoso Sub-Fund Offering Memoranda as pleaded at paragraphs 38.g and 40 above. Further particulars may be provided following evidence and disclosure.

c. CSAM (and/or CSFM) were aware that the reasons for a payment not being made by the obligor (i.e., buyer) might include error, omission, lack of diligence, fraud by the officers of the obligor (i.e., buyer), default or insolvency of the obligor (i.e., buyer); disruption, insurrection, and an Act of God;

Particulars

See the Virtuoso Sub-Fund Offering Memoranda as pleaded at paragraph 38.h above. Further particulars may be provided following evidence and disclosure.

d. CSAM (and/or CSFM) were aware that the reasons for an insurance contract not paying in full and on time included repudiation of the claim by the insurer, error, omission, lack of diligence, fraud by the officers of the insurer or those parties arranging the insurance, default or insolvency of the insurer, disruption, insurrection, or an Act of God in the locations where the insurer or those parties arranging the insurance have operations;

Particulars

See the Virtuoso Sub-Fund Offering Memoranda as pleaded at paragraphs 38.i above. Further particulars may be provided following evidence and disclosure.

e. CSAM (and/or CSFM) knew that there was no guarantee that an obligor or an associated insurance contract would pay in full and on time;

Particulars

See CSAM presentation “Credit Suisse (Lux) Supply Chain Finance Fund – Access to Credit Protected Supply Chain Financing” dated July 2018 CSA.5000.0002.1314 at page 14. Further particulars may be provided following evidence and disclosure.

f. CSAM (and/or CSFM) were aware that in the event that the sub-fund was unable to source insured notes, this would restrict their ability to make future investments and thus jeopardise the product's viability;

g. from about September 2018, CSAM (and/or CSFM) were aware that the insurance exposure was highly concentrated with IAL / Tokio Marine;

Particulars

See paragraphs 93 to 0~~97~~ above. Further particulars may be provided following evidence and disclosure.

h. CSAM (and/or CSFM) were aware, or ought to have been aware, that there was a risk that an insurer (including IAL / Tokio Marine) would not renew its insurance policy at short notice; and

i. CSAM (and/or CSFM) were aware, or ought to have been aware, that in the event a claim was made on insurance policies with IAL / Tokio Marine, there was a risk that the insurer may refuse to pay in full and on time.

99. CSAM (and/or CSFM):

a. were not involved in the selection of individual insurers; and

b. were not involved in the negotiation of insurance policies.

100. In the premises pleaded at paragraphs 35 to 41 and 93 to 99, CSAM (and/or CSFM):

a. ought to have been involved in (or had greater visibility over) the arranging of the insurance policies and the consideration of policy terms intended to protect the assets of the Virtuoso Sub-Fund;

b. ought to have conducted an independent assessment of the terms of insurance policies obtained by Greensill in order to assess the risks that the policies would not cover loss suffered with respect to the Notes including the risks that an insurer might deny coverage;

ba. ought to have conducted a critical analysis of the structure of the insurance or the concentration of insurance cover over a small number of insurance providers;

Particulars

Wenger Plattner Report dated 30 July 2022: ~~CSA.0001.0011.7751~~ CSA.5000.0007.0716 at [23].

Email chain involving (*inter alia*) Philipp Wehle, Michel Degen and others from 7 March 2021, where Philipp Wehle asked Gebhard Giselbrecht: "*Do you have the internal directive from 2019 at hand which required to*

reduce the funds' reliance on individual credit insurers?", and Michel Degen subsequently responded in an email to Gebhard Giselbrecht (and others): "*According to my knowledge there were never such guidelines introduced – we had an internal discussion around it – but did not implement or instruct someone*": CSA.7000.0002.3438.

c. ought to have required (or in the alternative, sought) that the exposure of the Virtuoso Sub-Fund to a particular insurer as a percentage of total notes insured be limited much more significantly than what in fact occurred;

Particulars

E.g. see transcript of interview by Deloitte and Walder Wyss with Mr Degen on 12 July 2021 at Q36 (CSA.0001.0012.2850): "we had once a discussion I think in 2020, no, 2019, I cannot clearly remember, where we said look, how much exposure do we have? Tokio Marine had like 85% of the risk and we discussed to limit this but we didn't really follow-up on this".

E.g. See transcript of interview by Deloitte and Walder Wyss with Mr Galligan on 18 May 2021 at Q40 (CSA.0001.0012.2890): "I ask myself how it can be so stupid to rely on one insurer".

d. ought to have required (or in the alternative, sought) that the insurance arrangements for the sub-fund were structured in such a way that the viability of the sub-fund was not jeopardised if an insurer decided not to renew its insurance policy at short notice; and, or alternatively

e. with respect to disclosures to investors, ought not to have made (or failed to make) the disclosures set out at paragraph 97D above.

Particulars

Wenger Plattner Report dated 30 July 2022: ~~CSA.0001.0011.7751~~ CSA.5000.0007.0716 at [23]. FINMA Ruling: CSA.0001.0011.7753 at 0078 ([245]-[246]). Further and better particulars may be provided following evidence and disclosure.

G ISSUES WITH NMC

100B. On about 31 October 2019, representatives of Credit Suisse Asset Management Limited received a request for due diligence material from a third party who was writing a report on NMC Health Care LLC.

Particulars

Email chain between Sally Singer (Greensill), Robert Pooles (Greensill), Ludwig Sels (Greensill) and Shahar Gordon (Credit Suisse Asset Management Limited) (GCU.0012.0005.0275).

101. On about 17 December 2019, representatives of CSAM (and/or CSFM) and the Credit Suisse Group became aware of a report published by Muddy Waters Capital LLC on NMC Health Plc, the parent company of NMC Health (**Muddy Waters Report**).

Particulars

i Email from Anitta Tuure (Credit Suisse, Media Relations Switzerland) to Mr Degen, Mr Mathys, Mr Haas and others dated 17 December 2019 (GCU.0005.0020.5146).

ii Email from Anitta Tuure to various personnel dated 18 December 2019 (CSA.5000.0001.1244).

iii Email from Roberto Malfatti di Monte Tretto to Mr Mathys, Mr Haas and others dated 18 December 2019 (CSA.5000.0003.4367).

iv Email chains between Benedict Wilkinson, Lara Warner and Thomas Hermann dated 17 to 18 December 2018 (CSA.5000.0003.4364 attaching CSA.5000.0003.4365; CSA.5000.0003.4366).

v Email from Peter Norley (Credit Suisse Asset Management Americas) to Eric Varvel dated 19 December 2019 forwarding article titled "Muddy Waters Report Spotlights Growing Concern About Debt Masquerading as 'Reverse Factoring'" (CSA.6000.0002.5789).

vi Email from Michael D'Angelo to Eric Varvel dated 19 December 2019 forwarding article titled "Muddy Waters Report Spotlights Growing Concern About Debt Masquerading as 'Reverse Factoring'" (CSA.6000.0002.2544).

vii Email from Anitta Tuure to various personnel dated 20 December 2019 (CSA.5000.0002.4072).

~~iv~~viii Email from Benedict Wilkinson to Lara Warner, Thomas Herrmann, Yves-Alain Sommerhalder and Philipp Wehle dated 22 December 2019 (CSA.5000.0003.4397 attaching CSA.5000.0003.4398; CSA.5000.0003.4399).

Further particulars may be provided following evidence and disclosure.

102. The Muddy Waters Report contained allegations to the effect that NMC Health Plc:

a. had indicators of significant fraud including inflated asset purchase prices and capital expenditures;

aa. was believed to have manipulated and understated its reported debt;

b. was the subject of serious doubts about the company's financial statements, including its asset values, cash balances, reported profits, and reported debt levels;

c. had invested in large assets at costs found to be too high to be plausible, which gave rise to concerns about fraudulent asset values and theft of company assets;

d. had margins which appeared to be too good to be true relative to UAE-focused publicly traded comparable companies; and

e. fell well short of having sufficient governance and internal controls.

102A. The Muddy Waters Report identified that a Credit Suisse supply chain finance fund held notes issued by NMC.

102B. By 18 December 2019, Gulf News reported that in response to the Muddy Waters Report:

a. the share price of NMC Health had dropped by 32%; and

b. NMC Health had lost over $2 billion in market value.

Particulars

See article published on Gulf News website on 18 December 2019: "Updated – NMC dismiss Muddy Waters report as baseless" (~~https://gulfnews.com/business/markets/updated---nmc-dismisses-muddy-waters-report-as-baseless-1.68545807, accessed 12 March 2026~~MAR.0025.0001.0003).

102C. By no later than 18 December 2019, representatives of CSAM (and/or CSFM) had made enquiries of representatives of Greensill regarding the movement in NMC's share price.

Particulars

Email from Robert Pooles (Greensill) to Mansour Davarin (Demica) dated 18 December 2019: GCU.0009.0017.6911.

Email from Ivan Jesensky to various Greensill personnel dated 20 December 2019: GCU.0009.0012.7028.

102D. On about 18 December 2019, Lex Greensill informed Luc Mathys (CSAM) (*inter alia*) that the Muddy Waters Report was basically repeating allegations made 6 months ago by others.

Particulars

See CSA.5000.0002.4049.

102E. Also on about 18 December 2019, representatives of Credit Suisse Wealth Management raised concerns with representatives of CSAM regarding the incident with NMC Health.

Particulars

Email from Markus Würsch to Francois Ricord and Sandeep Arora dated 18 December 2019: See CSA.5000.0003.4368

103. Following receipt of the Muddy Waters Report, Credit Suisse Virtuoso continued to acquire NMC Notes (as that term is defined in the Applicant's proceeding in this matter).

104. In the premises pleaded in paragraphs 100B to 103, CSAM (and/or CSFM, in circumstances where CSAM was under the supervision of CSFM), by continuing to acquire NMC Notes for the Virtuoso Sub-Fund following the publication of the Muddy Waters Report:

a. did not have sufficient control over the nature and extent of the exposure of the Virtuoso Sub-Fund to NMC Health;

b. at the times when the NMC Notes were acquired after publication of the Muddy Waters Report and earlier investigations by other investment analysts, did not perform adequate investigations or due diligence in respect of NMC Health;

c. did not sufficiently identify, limit or monitor the risks for the Virtuoso Sub-Fund arising from having exposure to NMC Health; and

d. took inadequate steps to seek or require that Greensill did not acquire new notes linked to NMC Health for the Virtuoso Sub-Fund;

e. failed to exercise its powers under the September 2019 Warehousing Letter to reject NMC Notes where there had been:

i fundamental credit metrics deterioration and substantial increase of default risk; and

ii heightened public appearance with negative press leading to increased compliance and reputational risk for the Virtuoso Sub-Fund going forward; and

GA CIRCUMSTANCES OF LOAN AND PROPOSED CAPITAL RAISE BY CREDIT SUISSE GROUP

GA1 The Credit Suisse Group's Oversight of the Relationship Between CSAM / CSFM and Greensill from about July 2020

104A. In the period from about July 2020 until about March 2021:

a. Thomas Gottstein was:

i Chief Executive Officer of the Credit Suisse Group; and

ii a member of the Executive Board of the Credit Suisse Group;

b. Lara Warner was:

i Chief Risk Officer of the Credit Suisse Group; and

ii a member of the Executive Board of the Credit Suisse Group;

c. Helman Sitohang was:

i Chief Executive Officer of Credit Suisse Asia Pacific; and

ii a member of the Executive Board of the Credit Suisse Group Executive;

d. Philipp Wehle was:

i Head of International Wealth Management for the Credit Suisse Group; and

ii a member of the Credit Suisse Group Executive Board; and

e. Eric Varvel:

i was Global Head of Asset Management for the Credit Suisse Group; and

ii reported directly to Mr Wehle.

f. Richard Gibb:

i was Credit Suisse Australia's Chief Executive Officer; and

ii reported directly to Mr Sitohang;

g. Shane Galligan was:

i Credit Suisse's Managing Director – Senior Client Partner Australia; and

ii the Greensill relationship manager within Credit Suisse Private Banking Asia Pacific; and

h. Nick Koemtzopolous was:

i Credit Suisse's Head EMEA Equity Capital Markets; and

ii the main contact in London for Greensill regarding a potential Initial Public Offering (**IPO**).

104AA. On about 28 January 2020, Mr Galligan, Mr Koemtzopoulos, Mr Gibb and others presented to the Greensill Board to "pitch" for Credit Suisse to potentially conduct an IPO on behalf of Greensill.

Particulars

See email from Mr Galligan to Mr Greensill and Maurice Thompson, copying others, dated 25 January 2020 (GCU.0005.0022.0412), attaching presentation entitled "IPO considerations" (GCU.0005.0022.0413). See the Deloitte Report at [2.3.1].

See transcript of interview by Deloitte and Walder Wyss with Mr Gibb on 18 May 2021 at Q9 (CSA.0001.0012.2897).

104AAB. On about 27 February 2020, Mr Greensill and Mr Sitohang met for dinner to discuss all of the "ancillary business" which Greensill (and relatedly, Mr Gupta) were giving or proposing to give the Credit Suisse Group.

Particulars

See the particulars to paragraphs 162MAB above.

104AB. On about 4 March 2020, Dr Gottstein wrote to Mr Greensill:

a. to introduce himself directly to Mr Greensill, because he was contacting Credit Suisse's most valued clients;

b. to inform him that Mr Galligan had briefed him on the current Greensill and Credit Suisse initiatives and on the success of recent IPO pitch from Credit Suisse, and that "CS will not let you down".

Particulars

See CSA.5000.0008.1831.

104AC. In about March 2020, Credit Suisse Australia extended a $120 million loan to Mr Greensill and his brother, Peter Greensill.

Particulars

Reputational Risk Review Process Memoranda dated 9 October 2020 CSA.7000.0001.0152_0005 and 4 December 2020: CSA.7000.0001.0740_0005. See the Deloitte Report at [2.2.5]. ~~As far as Marsh is presently aware, at this stage the documents recording this loan have not been discovered by UBS.~~

104AD. On about 6 May 2020, Dr Gottstein:

a. had a call with Mr Greensill, the objective of which was for Mr Greensill and Dr Gottstein to get to know each other, and to stamp Credit Suisse's willingness to be the bank of choice around the world across various initiatives; and

b. received briefing materials in preparation for that meeting.

Particulars

See email from Joachim Oechlin to Dr Gottstein dated 1 July 2020: CSA.5000.0008.1833 attaching CSA.5000.0008.1834, CSA.5000.0008.1835 and CSA.5000.0008.1836. ~~Marsh notes that these documents have been heavily redacted by Credit Suisse, with CSA.5000.0008.1834 being redacted in such a manner that it contains no substantive content.~~

That the objective of the meeting was to the effect as described above was set out in the briefing note under the heading "Rationale / Objectives of the meeting according to Shane Galligan".

104AE. In about May 2020, Credit Suisse's Global Financial Crime Compliance team ("FCC") prepared a report on Mr Greensill and Peter Greensill.

Particulars

See draft report at CSA.7000.0001.2168. ~~The draft report has a significant number of redactions.~~ The report contains a "negative news summary", which includes references to reports of high profile credit losses by Greensill Capital clients in 2020, reports on the role of Greensill with respect to GAM in May 2019, an anonymous letter sent to the CEO in June 2019 questioning the cooperation between Credit Suisse and Greensill, and reports on disputes with the ATO,

104AF. On about 14 June 2020, the Financial Times published an article entitled "SoftBank invests in Credit Suisse funds financing technology bets".

Particulars

This article is described in the particulars to paragraph 173 above.

104AG. On about 15 June 2020, in response to the article in the Financial Times, Dr Gottstein requested the following information:

a. how much SoftBank was invested in Greensill, both in notional amount and percentage (range) terms;

b. how much and in which companies the supply chain funds invested in which SoftBank (Vision Fund) was invested;

c. how much SoftBank (Vision Fund) was invested in the supply chain funds.

Particulars

Email from Mr Milenkovic, to Mr Degen, Mr Mathys, Mr Haas and Anitta Tuure, copying Ms Oechslin, dated 15 June 2020. The email had the subject line "FT article", and was sent with high importance: CSA.6000.0002.0821.

104AH. On about 15 June 2020, CSAM responded to the request for information from Dr Gottstein regarding SoftBank and Greensill, which response included, *inter alia*:

a. that the Vision Fund owned approximately 37.4% of the equity of Greensill; and

b. that as at 11 June 2020, the supply chain funds had a total of approximately 20.2% exposure to Vision Fund related companies; and

c. that SoftBank had USD 850 million investment in the supply chain funds.

Particulars

Email from Mr Milenkovic to Mr Oechslin, copied to Mr Degen, Mr Varvel, Mr Haas, Mr Mathys, Ms Tuure and Tony Patti dated 15 June 2020: CSA.6000.0002.0821.

104B. By about mid-2020, several different parts of the Credit Suisse Group were engaging with the Greensill Group.

Particulars

This included the Asset Management business and the Private Banking business.

See also CSA.7000.0001.0152_0005, CSA.7000.0001.0152_0005; CSA.5000.0008.2556; CSA.6000.0001.9633.

Further particulars may be provided following evidence and disclosure.

104C. From a time not presently known to Marsh, but by no later than about July 2020, senior management of the Credit Suisse Group were involved in directing, instructing overseeing and/or making decisions for CSAM and/or CSFM with respect to its relationship with Greensill and its management of the Virtuoso Sub-Fund.

Particulars

The relevant senior management presently known to Marsh were Dr Gottstein, Ms Warner, Mr Sitohang, Mr Wehle, Mr Varvel, Mr Galligan, Mr Chin and Mr Dasmaltschi.

This scrutiny on Greensill appears to have arisen in a context where Ms Warner had asked to be informed about any business considered for SoftBank and related entities: e.g. see Deloitte Report at [6.131.2].

Further particulars may be provided following evidence and disclosure.

104D. On about 22 July 2020, Dr Gottstein, Ms Warner, Mr Sitohang and Mr Wehle attended a call to discuss SoftBank Group Corp (**SoftBank**), Softbank Vision Fund L.P. (**Vision Fund**), a non-regulated limited partnership registered in Jersey used as a vehicle to make investments, and the Greensill Group, during which call, *inter alia*:

a. it was decided that the Credit Suisse Group did not want there to be any increase in Vision Fund's and SoftBank's stake in Greensill, and that ideally Vision Fund would reduce its stake in Greensill;

b. it was decided that there should be a joint plan with Greensill to bring Vision Fund backed companies within a maximum limit of 5% of the total volume of notes for the Virtuoso Sub-Fund by the end of 2020 (the **SoftBank Limit**), which should be the subject of a written agreement with Greensill;

c. Mr Gottstein indicated to the effect that there needed to be more active selection of notes offered by Greensill through CSFM and/or CSAM's fund management (which would normally lead to higher rejection rates than what had occurred to that point in time); and

d. Mr Sitohang and Mr Wehle were tasked with seeking to install better governance around the Greensill relationship.

Particulars

This call is described in an email from Mr Wehle to Mr Varvel (copied to Babak Dastmaltschi) dated 22 July 2020: CSA.5000.0003.7287. Following the call, Mr Wehle conveyed the results of the call to Mr Varvel in his email and raised some follow-up questions about the matters discussed. Further particulars may be provided following evidence and disclosure.

104DA. On about 22 July 2020, Mr Dastmaltschi provided Mr Wehle with a "one pager" which set out details of relationships between the Credit Suisse Group and Greensill, including details of the "business pipeline" from Greensill.

Particulars

This information was sent from Mr Dastmaltschi to Mr Wehle in response to the email particularised at paragraph 104D: see CSA.7000.0001.3810 and CSA.7000.0001.3811. The "business pipeline" for Credit Suisse's International Wealth Management Group was stated to be:

i Potential real estate financing in UK, at corporate level

ii Aviation finance: client holds 5 private jets

iii Expanding CSAM collaboration further (SCF funds)

iv Increase AuM for PB from further cash proceeds: yearly dividend inflows (up to 30m+ p.a.) and potential further sale of stakes (esp. after IPO)

v Salary pre-payments business: help client grow business by rolling-out to corporates internationally

vi Risk management of listed strategic stake in GC, post-IPO (est. 2021 at the earliest)

The "business pipeline" for Credit Suisse's "APAC Division" was stated to be:

i IPO of GC In Australia (APAC and London IB/ECM)

~~i~~ii IB/ECM APAC and London involved also for potential pre-IPO investors, and potential M&A opportunities.

104E. On about 24 August 2020, senior management of the Credit Suisse Group, including Dr Gottstein, met with representatives of FINMA at which:

a. FINMA provided a negative assessment of Greensill; and

b. FINMA expressed its disappointment to Dr Gottstein that no review had taken place on the part of Credit Suisse with regard to GAM.

Particulars

FINMA Ruling, CSA.0001.0011.7753 at 0035 ([92]). The negative assessment included the words "it doesn't look good". Other aspects of this meeting (including the other attendees) are not presently known to Marsh, and part of the FINMA report referring to this meeting is presently subject to a claim for legal professional privilege by UBS.

See also email from Manuel Rybach to Richard Meddings and Romeo Cerutti dated 24 August 2020, with the subject "FINMA/Richard Meddings call, August 24, 2020 – draft minutes", which states: "*Finally, MB [Mark Branson, FINMA] brought up Greensill/Vision Fund, stating that "it doesn't*

look good" and expressed his disappointment that there was "no GAM readacross"": CSA.7000.0001.2361.

Further particulars may be provided following evidence and disclosure.

GA2 Credit Suisse Raising Funds for Greensill

104EA. From as early as May 2019, the Credit Suisse Group Investment Banking division sought to be considered by Greensill to act on any potential initial public offering (**IPO**) or share sale of Greensill.

Particulars

(a) Email from Nick Koemtzopoulos (Credit Suisse) to Credit Suisse employees dated 13 May 2019 (CSA.7000.0002.1376), in which he states: '*yes I meant to develop dialogue for future IPO or sale'*.

(b) Email from Neil Garrod (Greensill) to Adam Roberts Thomson (Credit Suisse), copying Lex Greensill, dated 17 December 2019 (GCU.0005.0020.4467), and attaching a pdf slide deck authored by Morgan Stanley and containing discussion points on a potential Greensill IPO dated 26 July 2019 (GCU.0005.0020.4468).

(c) Email from Shane Galligan (Credit Suisse) to Lex Greensill and Maurice Thompson (Greensill) (copying various Credit Suisse personnel including Richard Gibb and Nick Koemtzopoulos) dated 25 January 2020 (GCU.0005.0022.0412), attaching a pdf slide deck authored by Credit Suisse entitled 'IPO Considerations' dated 28 January 2020 (GCU.0005.0022.0413).

(d) Email from Thomas Gottstein (Credit Suisse) to Lex Greensill dated 4 March 2020 (CSA.5000.0008.1831), in which he states: '*Shane has briefed me on our current initiatives, and the success of our recent IPO pitch*'.

104EB. In about ~~August~~ September 2020, the Credit Suisse Group Investment Banking division began acting for Greensill in relation to a private placement of shares to generate capital in favour of GCPL (**Proposed Private Placement**).

Particulars

Email from Omri Lumbroso of Credit Suisse to Credit Suisse employees dated 8 September ~~9 August~~ 2020 (CSA.7000.0001.6521).

Wenger Plattner Report dated 30 July 2022 (~~CSA.0001.0011.7751~~ CSA.5000.0007.0716 at [47]-[48]).

104F. In about September 2020, the Credit Suisse Group Investment Banking division assumed a mandate to conduct the Proposed Private Placement, with the intention to complete that private placement by the end of 2020.

Particulars

April 2022 AGM RFI: MAR.0008.2000.0001 at p 6. Email from Richard Gibb to Mr Greensill (copied to Mr Sitohang and others) dated 3 September 2020: CSA.5000.0008.4093. FINMA Ruling: CSA.0001.0011.7753 at 0038 ([101]).

Wenger Plattner Report dated 30 July 2022: CSA.5000.0007.0716 ~~CSA.0001.0011.7751~~ at [47]-[48].

Further particulars may be provided following evidence and disclosure.

104FA. On about 8 September 2020, representatives of the Credit Suisse Equity Capital Markets and Private Placements team discussed a script for early stage "soft sounding" of institutional investors ahead of the Proposed Private Placement, which script included a statement that "*Credit Suisse is very close to Greensill*".

Particulars

Emails between Omri Lumbroso, Erik Morris, Simon Laughton and others dated 8 September 2020: CSA.7000.0001.6520.

Emails between Omri Lumbroso, Richard Gibb, Shane Galligan and others dated 7 to 8 September 2020: CSA.7000.0001.6326.

104G. In about September 2020 and October 2020, Credit Suisse Investment Banking gave consideration to providing Greensill with a ~~USD140 million~~ loan (initially USD125 million, but later increased to USD140 million) (**Proposed CS Loan**).

Particulars

FINMA Ruling: CSA.0001.0011.7753 at 0038 ([101]).

Document titled 'Annual General Meeting for Credit Suisse Group AG: Response to a request for information' dated 4 April 2022 (MAR.0008.2000.0001 at page 6).

Email from Tom Wootton to Lara Warner, Thomas Herrmann and Ralf Hafner (copied to Ryan Atkinson, Dominic Hughes, Margaret Shipman and Sema Allan) dated 25 September 2020 with subject "Greensill $325m Pre-IPO Financing heads-up": CSA.5000.0003.6809.

Email from Tom Wootton to Lara Warner, Thomas Herrmann and Ralf Hafner (copied to Ryan Atkinson, Dominic Hughes, Margaret Shipman and Sema Allan) dated 8 October 2020 with subject "Greensill $325m Pre-IPO Financing heads-up": CSA.7000.0001.2317.

205GA. At the time of giving consideration to the Proposed CS Loan:

a. the Credit Suisse Group had an existing loan exposure to corporate entities owned or controlled by Lex and Peter Greensill for approximately A$120 million,

which was secured against their shareholding in Greensill Capital and family-owned farming assets, and where the borrowers had breached a number of undertakings which would constitute an event of default under the relevant loan(s); and

b. Mr Greensill was communicating to the Credit Suisse Group that the Proposed CS Loan was needed urgently.

Particulars

See Project Jade – CRM memo – Covenant Waiver Request at CSA.7000.0001.2628.

Eg see transcript of Deloitte and Walder Wyss interview with Nishan Srinivasan dated 6 May 2021 at Q18 (CSA.0001.0012.2879), transcript of interview by Deloitte and Walder Wyss with Mr Wootton on 6 May 2021 at Q10-11 (CSA.0001.0012.2880); transcript of interview by Deloitte and Walder Wyss with Mr Hughes on 7 May 2021 at Q9, Q30 (CSA.0001.0012.2881).

104H. Part of the proceeds of the Proposed CS Loan were intended to be used to reduce previous loans that Credit Suisse's Australian private banking unit had made to Mr Greensill's family trusts from ~~of~~ approximately AU$92.5 million to approximately AU$50 million.

Particulars

Email from Tom Wootton to Lara Warner, Thomas Herrmann and Ralf Hafner (copied to Ryan Atkinson, Dominic Hughes, Margaret Shipman and Sema Allan) dated 8 October ~~25 September~~ 2020 with subject ~~"[Redacted "CID"]~~ Greensill $325m Pre-IPO Financing heads-up":~~-~~CSA.7000.0001.2317 ~~CSA.5000.0003.6809~~.

Credit Suisse Services AG – GC Regulatory Affairs - Internal Briefing for meeting with FINMA dated 16 March 2021: CSA.5000.0002.8044 at p 62.

Article published on the Financial Times website on 19 December 2022: "Credit Suisse financed Greensill's plan to set up insurance firm".

Minutes of Reputational Risk Committee dated 19 October 2020: CSA.5000.0002.7486 at p 1.

Reputational Risk Review Process Memo dated 9 October 2020: CSA.7000.0001.0736.

Further particulars may be provided following evidence and disclosure.

104I. The Proposed Private Placement and the Proposed CS Loan were intended to be methods of providing financing to Greensill in advance of a potential initial public offering (**IPO**).

Particulars

See for example emails between Omri Lumbroso, Nishan Srinivasan and Nick Koemtzopoulos dated 14 September 2020: CSA.7000.0002.1118.

104J. The Proposed Private Placement, the Proposed CS Loan and the potential IPO were anticipated to be a source of significant income flows for the Credit Suisse Group, in the event that they proceeded.

Particulars

FINMA Ruling: CSA.0001.0011.7753 at 0038 ([101]).

E.g. see transcript of interview by Deloitte and Walder Wyss with Mr Gibb on 18 May 2021 at Q41 (CSA.0001.0012.2897): "If the IPO would have happened in 2022 it would have been one of the largest IPOs ever done for us in Australia, so hence the attention it was getting".

GA3 Circumstances of Entry into the CS Loan

104K. In about late September 2020, Credit Suisse's credit risk management team ~~and reputational risk management team~~ identified a number of concerns with the Proposed CS Loan to Greensill, which they described as red flags that raised significant concerns.

Particulars

The concerns were set out in an email from Tom Wootton to Ms Warner and others dated 25 September 2020 with subject "~~[Redacted "CID"]~~ Greensill $325m Pre-IPO Financing heads-up": CSA.5000.0003.6809. ~~The version of the email discovered by UBS has been heavily redacted. From what has not been redacted, it is apparent that T~~those concerns included (without intending to limit the contents of the email):

(a) concerns about using a holding company borrower with springing security and potential subordination;

(b) concerns about confidence in bridge take-out given difficult market conditions and potential negative news flow;

(c) concerns about the quality and pricing of credit risk underwriting decisions given rapid growth;

(d) concentration risk (both in terms of asset originators and investors);

(e) the continued availability and cost of insurance given several recent defaults;

(f) the relatively short track record of Greensill;

(g) the very rapid growth of the Bank's balance sheet;

(h) concerns regarding the development of problem loans and loan loss reserves given the rapid loan book expansion in an uncertain global economic environment due to the COVID-19 pandemic;

(i) potential balance sheet concentrations, where Credit Suisse had no detail about the credit quality of borrowers and lending concentrations, in circumstances where Bloomberg had mentioned that BaFin and the German deposit protection scheme already had concerns about loan growth and potential lending concentrations in the portfolio, particularly to GFG Alliance/Sanjeev Gupta companies;

(j) regulatory scrutiny over Greensill's linkage to Sanjeev Gupta and its business GFG;

(k) Greensill did not use a big four auditor and there were challenges over the quality of earnings;

(l) a string of client defaults had taken place and more were expected to come, with some widely reported in the news; ~~and~~

(m) previous negative reporting of Softbank / Greensill / CS financing arrangements; and

~~(m)~~(n) reputational risk issues around GAM.

Wenger Plattner Report dated 30 July 2022: CSA.5000.0007.0716 ~~CSA.0001.0011.7751~~ at [48].

Concerns were also set out in emails between Mr Herrman, Sema Allan (Reputational Risk), James Wood (Reputational Risk) and others dated 4-20 September 2020: CSA.5000.0008.2544 with subject "[Redacted "CID"] – Escalation Procedures". The version of the email discovered by UBS has been heavily redacted. From what has not been redacted, it is apparent that those concerns included (without intending to limit the contents of the email):

~~(n)~~(o)that notwithstanding that Mr Galligan, Mr Sitohang, Ms Warner and Dr Gottstein were aware of and/or had discussed and/or were supportive of the proposed capital raise, Credit Suisse assisting with the proposed capital raise was an extremely challenging ask based on the nature of the UK press coverage of [redacted], their current reputation and the recent linkage to CSAM/[redacted];

~~(o)~~(p)that transactions involving the pre-IPO funding and capital raise would be out of appetite for Credit Suisse at that point in time; and

~~(p)~~(q)the pre-IPO financing was on the very risky spectrum and normally something that Credit Suisse did not entertain.

Further particulars may be provided following evidence and disclosure.

104KA. On about 7 October 2020:

a. Credit Suisse became aware that the Wall Street Journal was planning a story on the insurance aspects of the supply chain finance funds, and it was expecting a critical article with allegations about the insurance coverage being too concentrated and speculation about the implications for the funds;

b. the Wall Street Journal raised, *inter alia*, that they had been told that Euler had recently declined to renew Greensill's insurance policies, that some of that decision was driven by rising defaults among some of Greensill's clients, and that IAG's trade credit insurance was in run off as the company had sold its trade credit insurance business to Tokio Marine;

c. the Wall Street Journal queried, *inter alia*, if the fund had replaced Euler with a different insurer, and how the fund would replace IAG's coverage when it expired;

d. Dr Gottstein's response was, *inter alia*, to request that Credit Suisse liaise with Greensill on the reply, and to query whether it was time to push back hard with some very robust statements, because he was fed up with being defensive on the topic all the time.

Particulars

See Deloitte Report at [2.1.21].

Email between Dr Gottstein, Mr Wehle, Mr Varvel, Ms Warner, Mr Degen, Mr Mathys and others dated 7 October 2020: CSA.5000.0003.6769.

Email from Anitta Tuure to Thomas Gottstein, Philipp Wehle, Eric Varvel, Michel Ruffieux, Romeo Cerutti, Lara Warner and others, copying Michel

Degen, Luc Mathys, Lukas Haas and others dated 7 October 2020 (CSA.5000.0002.6378) and responses from Thomas Gottstein and Michel Degen in the same chain.

See also email from Dominique Gerster (Credit Suisse) to Michel Degen, Thomas Gottstein, Eric Varvel, Philipp Wehle, Romeo Cerutti, Michel Ruffieux, Lara Warner, copying Luc Mathys and others, dated 7 October 2020 (CSA.5000.0002.6378) relaying Greensill's intended statement.

104KB. On or about 2 October 2020, Lara Warner and Thomas Herrman received the 'Reputational Risk Weekly Reporting' for 28 September 2020 to 2 October 2020, which recorded with respect to Greensill:

a. request to onboard Greensill to assist in, among other things, bridge financing;

b. that Greensill is a strategic client in the Asia Pacific; and

c. that there is inherent controversy in Greensill's operations, ongoing negative news from the financial press and a perceived weakness in Greensill's governance.

Particulars

Email from Marsha Heinen to Lara Warner and Thomas Herrmann with subject line 'CH CID – Rep Risk Weekly Reporting 28 Sept – 2 Oct 2020', dated 2 October 2020 (CSA.5000.0008.3864).

104KC. On or about 8 to 9 October 2020:

a. representatives of the Credit Suisse Investment Banking division discussed a Wall Street Journal article that reported that Greensill was looking to 'raise fresh capital' despite facing, amongst other things, client default and regulatory scrutiny;

b. following the Wall Street Journal article, Lex Greensill contacted Shane Galligan (Credit Suisse) to inform him that other investment banks were interested in the capital raise and that Credit Suisse would need to 'deliver to the timelines'; and

c. the Credit Suisse Investment Banking division put together a briefing memo for Thomas Gottstein for a call with Greensill to reiterate Credit Suisse's commitment in light of 'competitors starting to circle'.

Particulars

Email from Nick Koemtzopoulos to 'DD Prj Olive' dated 8 October 2020 including text of Wall Street Journal article entitled 'SoftBank-Backed Greensill Looks to Raise Fresh Capital' (CSA.5000.0003.6800). Omri

Lumbroso responds: '*This is probably worse than I was expecting … especially on the use of proceeds*'.

Email from Shane Galligan to Nick Koemtxopoulos and 'DD Prj Olive' dated 8 October 2020 (CSA.5000.0003.6802).

Email from Nick Koemtzopoulos to various Investment Banking representatives, including Shane Galligan and Richard Gibb dated 9 October 2020 (CSA.7000.0002.1348).

Email from Agnes Gebus to Helman Sitohang, Shane Galligan and others on 10 October 2020 attaching briefing memo on Greensill for Thomas Gottstein (CSA.7000.0002.1348). ~~The briefing memo prepared for Thomas Gottstein at CSA.7000.0002.1349 has been almost entirely redacted.~~

104L. By about 9 October 2020, the Credit Suisse risk management team, after further discussing their concerns with management and management's advisers at length over a 10-day period:

a. stated to Ms Warner and others to the effect that there remained a number of fundamental issues with the Proposed CS Loan, the current risks in Greensill's business and continued unfavourable press made it very challenging, and they were not supportive of a debt underwriting; and

b. set out 9 key credit risks.

Particulars

Email from Tom Wootton to Ms Warner and others dated 9 October 2020 with subject "Greensill $325m Pre-IPO Financing heads-up": CSA.~~5000.0008.3606~~7000.0001.2317. ~~The version of those emails produced under discovery has been redacted. From what has not been redacted, it is apparent that~~ T~~t~~he key credit risks included (without intending to limit the contents of the email):

(a) funding concentration, where Greensill was dependent on a limited number of funding sources to purchase its note receivables, and a loss of a funding provider would have a material impact on its ability to generate revenue;

(b) the availability of third party insurance, where Greensill's business model was dependent on the continued availability of credit insurance which was outside the company's control;

(c) significant client concentration; the top three clients represented approximately 50% of Greensill's net revenue, 35% of which was Mr Gupta's group, and where the second and third top clients were Softbank portfolio companies, and a loss of one of those three clients would materially impact on Greensill revenues

(d) the rapid growth of Greensill's balance sheet and concentrated exposure to Mr Gupta's group, where Greensill had invested about $4.2bn in Greensill-originated assets by June 2020, up from $0.7bn in 2018, with about 50% of Greensill bank's balance sheet exposed to Mr Gupta's group;

(e) rapid product and geographical growth through mergers and acquisition, and Greensill's ability to profitably integrate multiple acquisitions along with the intrinsic risk of a highly acquisitive strategy;

(f) weak year-to-date financial performance;

(g) adverse press coverage and historical negative news – e.g. Greensill, Softbank, GFG – where the continued flow of negative news was a risk to continued funding and insurance;

(h) limited investor appetite for Greensill debt;

(i) the deal structure, where Credit Suisse was in effect providing quasi equity but with limited upside.

Further particulars may be provided following evidence and disclosure.

104LAA. At about the time of sending the email at about paragraph 105L, the Credit Suisse credit risk team formed the view that it would never be comfortable with the Proposed CS Loan to Greensill, and that view did not change.

Particulars

The issues raised by the credit risk team were summarised in the email described at paragraph 104L.

See transcript of interview by Deloitte and Walder Wyss with Mr Wootton on 6 May 2021 at Q8, Q10, Q17, Q19, Q33 (CSA.0001.0012.2880). Eg at Q17, Q19, Mr Wootton described as follows:

> The biggest one is essentially that Greensill relied on funding. It needed funding to oil the wheels of the business. That funding came from a number of sourcing including CSAM and we went through that. It became

> clear that none of these sources were committed and could be pulled quite quickly. And as soon as that happens, the business collapses. The only more secure sort of funding was Greensill Bank. And this already had issues raised by BAFIN about the concentration risk. The asset growth was phenomenal. And when you see a very quick asset growth in a bank, this is already a red flag.
>
> ….
>
> Given the analysis that we have done, we didn't actually put much trust in the receivables and in their value. So, would you lend on the basis of receivables? No, you would not. That was the basic problem. The funding was a big issue, probably the biggest issue. Related to the funding was the insurance. The insurance was very important, because CSAM relied on the insurance, so if insurance is a problem the funding will be a problem. What we found in the due diligence is that there were clearly some issues. I think they were changing brokers and that some insurers wouldn't deal with them. We were told there was still capacity in the market, but on the other hand there was definitely noise. There were issues on the insurance side. To be honest I think it didn't feel as if the client told us everything. And there were issues because it impacts the funding…

Eg at Q33:

> If you read the list of issues that we raised, we were surprised that anyone would want to move forward. Credit risk is quite grey, usually it's quite arguable. On Greensill, it felt pretty black and white to us. There were so many red flags that it was one of the easier decisions… No, this is not in hindsight. To me, it was one of the easier calls. There were too many red flags.

See also transcript of interview by Deloitte and Walder Wyss with Mr Hughes on 7 May 2021 at Q14-16 (CSA.0001.0012.2881):

> We did the recommendation to Tom Wootton. We discussed with him and he sent the message further that we would not support it, that we would decline the transaction…. This was not a difficult decision. You know very early on in the transaction what the vulnerabilities are. At the point when we have the heads-up from the business you know the risks. Then you dig into those and see, and it just confirmed our initial view. It was an easy decision from a credit perspective because of this risk we laid out in

> the email we filed to Tom and also in the credit risk memo… There was absolutely no way that I would approve this transaction, so I followed the process and escalated.

See also Q41: How many loans per year do you approve? Maybe 30 per month. I also do relationship roles. It varies. Some months it may be 10 or 15. See also Q42: "How frequently do you get overruled when you come to a negative decision? This is the only time it happened…. I am here up to three years in this role".

See also a draft credit memorandum sent to Ms Warner on 9 October 2020 which was not supportive of a debt underwriting – referred to in the Deloitte Report at [6.129.1] (second bullet point).

See also transcript of interview by Deloitte and Walder Wyss with Mr Hughes on 30 June 2021 (CSA.0001.0012.2935): Q38: "You try to hold the line. It Is what we do, protect the bank. But the business would pick up the phone and call Lara. It becomes very difficult then. This Is something, and I worked in a number of Institutions, and this Is the only place that the CRO Is ok to take these calls and listen to them and overrule".

See also Q20: "Did the outcome raise a question in your mind whether there was a risk with regard to the CSAM funds? Yeah, I mean the conclusion was that we don't want to lend any money. So you wonder how someone else did get comfortable".

See also Q50: "But most businesses aren't that complicated. It's like a spiders web. There were so many dependencies. There is nothing behind this business. And that is not that difficult to identify".

See also transcript of interview by Deloitte and Walder Wyss with Mr Wootton on 1 July 2021 at Q37 (CSA.0001.0012.2937): "Can you confirm that you and your team had doubts about the sustainability of the Greensill business model? Yes". And at Q66: "This is the disappointing thing: the information was there for us to act. Based on the info, you would have thought that first, you would not do the loan; second, you would take a long hard look at any other connections; and third, you would do a pretty vast reduction".

See transcript of interview by Deloitte and Walder Wyss with Mr Atkinson on 2 July 2021 at Q13 (CSA.0001.0012.2937): "We had done an immense amount of work reviewing Greensill. I reviewed Greensill myself. Because if you want to say no to a loan you better have a good reason. I got involved and I made sure to know everything about Greensill. After everything we did we came to the

conclusion that this a loan we should not be doing". See also Q17: "There was a lot of work and effort done to give the loan the proper decision. When you work so hard to make what you think is the right decision and then it is returned you ask yourself: "if we don't say no to something that is so obvious, when do we say no?".

See also transcript of interview by Deloitte and Walder Wyss with Thomas Herrmann on 8 April 2021 at Q10 and Q13 (CSA.0001.0012.2862).

104LAB. Following the sending of the email by Mr Wootton to Ms Warner described in paragraph 104LA above, the credit risk team sought to have a meeting with Ms Warner to discuss why the credit risk team did not support the deal, but the meeting was cancelled by Ms Warner.

Particulars

E.g. see transcript of interview by Deloitte and Walder Wyss with Mr Wootton on 6 May 2021 at Q8, Q10 (CSA.0001.0012.2880).

See also transcript of interview by Deloitte and Walder Wyss with Mr Hughes on 30 June 2021 at Q51 (CSA.0001.0012.2935).

See also transcript of interview by Deloitte and Walder Wyss with Mr Wootton on 1 July 2021 at Q39 (CSA.0001.0012.2937).

See also transcript of interview by Deloitte and Walder Wyss with Mr Atkinson on 2 July 2021 at Q12 (CSA.0001.0012.2915).

104LAC. On about 12 October 2020, representatives of Credit Suisse Investment Banking division discussed the 'substantial fee opportunity' associated with the Proposed Private Placement and Proposed CS Loan.

Particulars

Email chain between various Credit Suisse personnel including Shane Galligan, Richard Gibb, Max Mesny, Gaurav Parkash, Nick Koemtxopoulos, Omri Lumbroso dated 12 to 13 October 2020 (CSA.5000.0003.6863).

104M. On about 13 October 2020, Ms Warner met with representatives of Credit Suisse's Investment Banking division who informed her that there was strong demand in the market for an investment in Greensill Capital.

Particulars

FINMA Ruling: CSA.0001.0011.7753 at 0039 ([103]).

See also email from Helen Brophy to Max Mesny (IBCM) and other Credit Suisse personnel dated 8 October 2020 (CSA.7000.0002.1052), which documents the IBC Team's meeting on 12 October 2020.

It is not presently clear to Marsh which representatives of the Investment Bank met with Ms Warner, nor is Marsh presently aware of further details of that conversation. It can be inferred from an email from Mr Sitohang to Ms Warner, Dr Gottstein and others dated 14 October 2020: G/560.0.0.1, where Mr Sitohang subsequently thanked Ms Warner for "getting there in time" with the credit approval, that Mr Sitohang was one of the representatives who met with Ms Warner.

See also email from Lara Warner to Ralf Hafner dated 13 October 2020 (CSA.5000.0008.3894). Ms Warner states: 'after careful consideration of the situation and discussions with Helman [Sitohang], Brian [Chin] and David Miller, I have decided to move forward with the bridge loan to [redacted]'.

Further particulars may be provided following evidence and disclosure.

104N. On about 13 October 2020:

a. Ms Warner granted credit risk approval for the proposed CS Loan; and

aa. Ms Warner granted that credit risk approval after discussions with, at least, Mr Sitohang, Brian Chin (co-head of Investment Banking) and David Miller (co-head of Investment Banking); and

b. that credit risk approval was granted notwithstanding the opposition of the Credit Suisse risk management team to the CS Loan and the risks which they had identified.

Particulars

FINMA Findings, p 2; FINMA Ruling: CSA.0001.0011.7753 at 0039 ([103]); Wenger Plattner Report dated 30 July 2022: ~~CSA.0001.0011.7751~~ CSA.5000.0007.0716 ~~-~~at [48].

Email from Ms Warner to Ralf Hafner (CSI/CSSEL CRO, Credit Suisse) dated 13 October 2020: CSA.5000.0008.2558. The email chain has been partially redacted by UBS.

Transcript of interview by Deloitte and Walder Wyss with Mr Hughes on 7 May 2021 at Q13 (CSA.0001.0012.2881).

See also transcript of interview by Deloitte and Walder Wyss with Mr Wootton on 1 July 2021 at Q44 (CSA.0001.0012.2937).

Further particulars may be provided following evidence and disclosure.

104O. On about 14 October 2020, representatives of Greensill and representatives of the Credit Suisse Group had a discussion about the following matters:

a. that GCUK had a mandate from its Board to raise $1 billion in new equity, which could be extended to $1.5 billion however the Board would need to be consulted to approve the increase;

b. that Credit Suisse and Citibank would be appointed to raise the equity;

c. that Credit Suisse's fees would be unchanged in line with a draft "EL" (2% plus 0.5% incentive) and debt term sheets;

d. that Citibank would join Credit Suisse on syndicated debt;

e. that Citibank's fee on the equity raise would be negotiated separately and was seen as an insurance paid by the Board for having an additional investment bank involved;

f. that there would be a full push on the equity to be raised by Christmas;

g. Citibank would underwrite US$140 million of the $400 million syndicated round to pay down the bridge loan, and Credit Suisse's fee would remain 2% on the $400 million as a gesture of good faith by Greensill;

h. Credit Suisse was considered Greensill's family, and Citibank was considered insurance; and

i. Credit Suisse would be formally appointed lead on the IPO, and it would be up to other investment banks to impress to get a role.

Particulars

These matters are recorded in an email from Shane Galligan (Credit Suisse's Managing Director – Senior Client Partner Australia) to Mr Greensill, copying Mr Sitohang and Mr Gibb dated 14 October 2020: G/560.0.0.1.

Mr Greensill responded to Mr Galligan's email to the effect that Mr Galligan's email was accurate, and that Greensill appreciated Credit Suisse's leadership and partnership in a pair of watershed transactions for it which set it up for an IPO in 12-18 months' time: G/560.0.0.1.

Further particulars may be provided following evidence and disclosure.

104P. On about 14 October 2020, Mr Sitohang sent an email to Dr Gottstein, Ms Warner and others in which he, *inter alia*:

a. forwarded the correspondence between Mr Greensill and Mr Galligan described in the preceding paragraph;

b. thanked Ms Warner for "getting there in time" with the credit approval for the Proposed CS Loan;

c. stated to the effect that he had spoken to Mr Greensill, and Mr Greensill was very happy that they had obtained the approvals for the Proposed CS Loan;

d. stated that "Citi almost snatch(ed) it from us"; and

e. stated to the effect that if Credit Suisse executed all three transactions well, it was worth easily $40-50 million in fees in the next 12 to 18 months.

Particulars

Email from Mr Sitohang to David Miller, Brian Chin and Ms Warner (copied to Dr Gottstein) dated 14 October 2020: G560.0.0.1. Further particulars may be provided following evidence and disclosure.

104PA. At some time on or prior to about 19 October 2020:

a. Ryan Atkinson <u>(as a guest)</u> and Larry Fletcher on Credit Suisse's Reputational Risk Committee pushed back on the proposed loan, stating to the effect that the valuation that was suggested for Greensill Capital was "a joke";

b. Mr Atkinson and Mr Fletcher were told that Ms Warner and Dr Gottstein had had several meetings / discussions with Mr Greensill, that Ms Warner and Dr Gottstein felt comfortable, and that the investment bank had done due diligence on Greensill and were satisfied; and

c. Mr Fletcher's impression was that the "senior people" wanted the loan to happen.

Particulars

This is recorded in an email from Mr Varvel to himself, copying Michael D'Angelo, on 27 March 2021: CSA.6000.0001.9633

104PB. On about 19 October 2020, ~~despite the resistance of at least some of its members~~, the Reputational Risk Committee approved the proposed CS Loan and potential IPO<u>;</u>~~.~~

<u>a. despite the resistance of attendees;</u>

<u>b. after Ms Warner had already effectively approved the loan, in circumstances where Ms Warner ran both reputational risk and credit risk;</u>

<u>c. in the absence of any discussion with the credit risk team which had conducted the due diligence on Greensill;</u>

d. as a formalistic process in a context where the loan was already effectively approved by Ms Warner.

Particulars

Minutes of the Reputational Risk Committee dated 19 October 2020: CSA.5000.0008.2534.

E.g. see transcript of interview by Deloitte and Walder Wyss with Mr Wootton on 6 May 2021 at Q9, Q10 (CSA.0001.0012.2880).

See also transcript of interview by Deloitte and Walder Wyss with Mr Wootton on 1 July 2021 at Q62-64 (CSA.0001.0012.2937).

104PC. Following the approval by the Reputational Risk Committee, the credit risk team were instructed to "make the deal happen", despite their opposition to it.

Particulars

Eg transcript of interview by Deloitte and Walder Wyss with Mr Hughes on 30 June 2021 at Q45-Q48 (CSA.0001.0012.2935): "We said we don't want to do this, Lara said she wants, so make it happen, that message came back to Ralf, Tom and me. That is the reality of the situation. I don't know if this is influencing or a decision. It's just a decision… Normally, in a transaction we would support [the credit risk memo] would be worded very differently to that. In this case, I was very sensitive to the wording that went in there because we were very concerned that if something did go wrong, if we hadn't been very explicit, it'd be quite difficult to do. That was a challenge. I was thinking on going to the HR and go on record. I decided against that because I need to work, and you don't want the implications of that sort of action on your career. It was a difficult time and decisions…. The message that was given to me was make it happen and do the best of it… Tom and I expressed our concern being put in a position where we needed to sign off. Ultimately, we were and I was just told to do it".

See also transcript of interview by Deloitte and Walder Wyss with Mr Hughes on 30 June 2021 at Q80, Q82 (CSA.0001.0012.2935).

See also transcript of interview by Deloitte and Walder Wyss with Mr Wootton on 1 July 2021 at Q33-34, Q57-59 (CSA.0001.0012.2937).

104Q. On about 22 October 2020, an entity or entities within the Credit Suisse Group granted the loan of approximately US $140 million to an entity or entities with Greensill with a one year term (**CS Loan**).

Particulars

FINMA Ruling: CSA.0001.0011.7753 at 0039 ([103]).

April 2022 AGM RFI: MAR.0008.2000.0001 at p 6.

Credit Suisse Services AG – GC Regulatory Affairs - Internal Briefing for meeting with FINMA dated 16 March 2021: CSA.5000.0002.8044 at p 60 and 62.

Credit Suisse PowerPoint presentation entitled "Greensill Tactical Crisis Committee Meeting", dated 7 March 2021, at slide 33 states: "*In October 2020, Credit Suisse approved a USD 140m 1 year bridge loan to Greensill (rated B), and at the same time Lex Greensill provided a US$60mm subordinated shareholder loan. Use of bridge loan proceeds was to reduce CS exposure to existing P. Greensill Family Trust loan (booked in CS AG, Sydney Branch) to AUD$50m (US$75m reduction), cash collateralize existing insurers of the receivable backed notes issued by Greensill (US$123MM), and general corporate purposes*": CSA.6000.0001.6946.

At this stage, the loan documentation itself has not been discovered in the proceedings, and Marsh presently does not know the precise legal entities who were a party to the loan.

Further particulars may be provided following evidence and disclosure.

104R. The following security interests were granted as part of the CS Loan:

a. an upstream guarantee from GCUK;

b. all shares in GCUK; and

c. a floating charge over a minimum of US$140 million comprising US$50 million in cash (held in a Citibank account) and US$90 million short dated (maximum 60 day) receivables from IG parties of GCUK, held within GCUK.

Particulars

Credit Suisse Services AG – GC Regulatory Affairs - Internal Briefing for meeting with FINMA dated 16 March 2021: CSA.5000.0002.8044 at p 62.

Further particulars may be provided following evidence and disclosure.

104S. At a time when decision making capabilities concerning CSAM and/or CSFM had been moved to the Credit Suisse Group level, and where at least Dr Gottstein, Ms Warner, Mr

Sitohang, Mr Wehle and Mr Varvel were involved in directing, instructing, overseeing and/or making decisions for CSAM and/or CSFM with respect to its relationship with Greensill and its management of the Virtuoso Sub-Fund as set out in paragraph 104C above, the CS Loan was approved by Ms Warner from a credit risk perspective in circumstances where:

a. at least Ms Warner had been told by the Credit Suisse risk management team of its opposition to that loan and the various credit risks and other concerns with Greensill which the risk management team had identified, as pleaded in paragraphs 104K to 104L above;

b. at least Dr Gottstein and Mr Sitohang were aware that Ms Warner had granted the credit risk approval for the CS Loan;

c. at least Dr Gottstein, Ms Warner and Mr Sitohang were aware that entering into the CS Loan would assist the Credit Suisse Group in potentially accessing significant future income flows from its relationship with Greensill, where it was anticipated that entities within the Credit Suisse Group could charge up to $40-$50 million in fees in a 12 to 18 month period as a result of that relationship, as pleaded in paragraph 104P above; and

d. the security for the CS Loan meant that an entity within the Credit Suisse Group would have first ranking security on Greensill assets, in priority over the Virtuoso Sub-Fund (and the investors in that sub-fund), should Greensill be unable to pay back the CS Loan (such as where credit risks raised by the Credit Suisse risk management team materialised).

104T. Investors in Virtuoso Sub-Fund:

a. were not informed of the terms, existence and circumstances leading to the CS Loan; and

b. were not informed of the credit risks and other concerns regarding Greensill which had been identified by Credit Suisse's risk management department, as pleaded in paragraphs 104K and 104L above; and

c. were not informed of the matters pleaded in paragraph 104S above.

104U. Following the collapse of Greensill, an entity or entities within the Credit Suisse Group were able to recover the CS Loan in circumstances where the security for that loan meant it had first ranking security on Greensill assets, in priority over the investors in the Virtuoso Sub-Fund.

Particulars

In about March 2021, Credit Suisse took steps to recover the CS Loan which included the appointment of receivers: CSA.5000.0002.8354 at p .0003.

On about 12 March 2021, Credit Suisse received approximately US$50.1 million by way of partial repayment of the CS Loan, leaving an outstanding balance of approximately US$89.9 million: CSA.5000.0002.8192 at p .0006 to .0007. Email from Ian Jordan to Riddhi Shah, Adam Roberts-Thompson and Nishan Srinivasan (copied to Carsten Stoehr, Mr Sitohang, David Miller, Leonora Daniel, Christoph Schmid, Dan Gooch and Sudpito Shatak) dated 29 March 2021 with subject "Greensill Bridge Loan Mark – 31 March 2021": CSA.5000.0002.8162.

As at about December 2022, the CS Loan had been repaid to Credit Suisse. See for example: Article published on the Financial Times website on 12 December 2022: "Credit Suisse accepted suspicious invoices for $US140m Greensill loan".

Further particulars may be provided following evidence and disclosure.

104V. By the entry into the CS Loan (and/or in the circumstances surrounding entry into the CS Loan and the potential for the Credit Suisse Group to being involved in an IPO):

a. there was a conflict of interest (or alternatively, a potential conflict of interest) between the interests of an entity or entities within the Credit Suisse Group in acquiring security interests over entities and instruments associated with Greensill, and the interests of investors in the Virtuoso Sub-Fund in not having their ability to recover their investments reduced;

b. there was a conflict of interest (or alternatively, a potential conflict of interest) between the interests of the Credit Suisse Group in obtaining significant revenue streams from its ongoing relationship with Greensill (by continuing to assist Greensill with financing and its potential IPO), and the interests of investors in the Virtuoso Sub-Fund in minimising the risks associated with their investments;

ba. there was a conflict of interest (or potential conflict of interest) between the incentive for the Credit Suisse Group in continuing to grow the sub-funds as a significant provider of funding to GCUK, where a fee for a potential IPO to its investment banking division would be a function of GCUK's scale and growth, and the interests of investors in the Virtuoso Sub-Fund and Nova Sub-Fund;

Particulars

See Deloitte Report at [6.39.1].

See also transcript of interview between Deloitte and Walder Wyss with Mr Mathys dated 11 August 2021 (CSA.0001.0012.2857) at Q47 with respect to reduction of GFG exposure: "We had these plans in place that

Michel agreed with Lex. Portfolio managers were working on these targets and when we noted that the targets were not met, I was informed and escalated that to Michel then. And typically, there was a discussion between Lex and Michel then. Lex often had good explanation because he needed maybe two months more because of an IPO etc. And Michel in the agreed on the new plans". See also Q53-55.

bb. where the Credit Suisse Group was lending to GCUK while also lending to Mr Greensill himself, there was a conflict of interest (or potential conflict of interest) between an interest in maintaining the credit quality and servicing of its loans, and the interests of the sub-funds which were funding GCUK's business;

Particulars.

See Deloitte Report at [6.39.1].

c. those directing, instructing, overseeing and/or making decisions on behalf of CSAM and/or CSFM with respect to the Virtuoso Sub-Fund failed to act in the best interests of investors by:

i preferring the interests of the Credit Suisse Group over the interests of those investors, by causing an entity or entities within the Credit Suisse Group to enter into a loan agreement with an entity or entities with Greensill which gave the Credit Suisse Group priority over those investors in the event that Greensill was unable to repay the loan;

ii preferring the interests of the Credit Suisse Group over the interests of those investors, by entering the CS Loan for the purposes of accessing future income streams for the Credit Suisse Group;

iii failing to inform those investors of the terms, existence and circumstances leading to the CS Loan;

iv failing to inform those investors of the perceived commercial benefit to the Credit Suisse Group of entering into the CS Loan;

v failing to inform those investors of the credit risks and other concerns with Greensill identified by Credit Suisse's risk management team; and, or alternatively

vi failing otherwise to inform those investors of the conflicts of interest identified in (a) and (b) above;

d. an incentive was created for the Credit Suisse Group to promote and protect Greensill's position in continuing to facilitate the issuance of notes, in

circumstances where doing so may not have been in the interests of investors in the Virtuoso Sub-Fund; and, or alternatively

e. the credit risk of investing in the Virtuoso Sub Fund was increased.

GA4 Events with respect to the Proposed Capital Raise in January 2021

104VA. By at least about early January 2021, GCUK's financial position was such that it was assessing, and taking legal advice on, whether it had reasonable prospects of avoiding insolvent administration or liquidation.

Particulars

See minutes of meeting of the directors of GCUK dated 8 January 2021, and the attendance of external advisers from Grant Thornton and Allen & Overy at that meeting: GCU.0009.00020.8693. Further particulars may be provided following evidence and disclosure.

104VB. As at about early January 2021:

a. GCUK was not able to buy back about $1 billion in notes on 31 December 2020 in order to reduce exposure to SoftBank backed companies and GFG in order to comply with the SoftBank Limit and GFG Alliance Limit, because it did not have sufficient liquidity; and

Particulars

See Deloitte Report at [2.1.22], [6.28.3].

b. GCUK informed representatives of the Credit Suisse Group that it had no money to execute the buy back and there was nothing in the future that was going to give it liquidity;

Particulars

See transcript of interview by Walder Wyss and Deloitte of Eric Varvel dated 16 July 2021 (CSA.0001.0012.2944) at Q48: "There was a call with Thomas, Helman, Lara and me. Lex had told someone in the group and I assume it was Lara that he didn't have the money and therefore couldn't execute the buyback and that there was nothing in the future that was going to give him liquidity and that there was therefore no choice…".

c. the Credit Suisse Group became focused on assisting GCUK to raise money so that GCUK could reduce its exposure to GFG in the sub-funds.

Particulars

E.g. see transcript of interview by Deloitte and Walder Wyss with Mr Galligan on 18 May 2021 at Q41 (CSA.0001.0012.2890): "In 2021 then, the private loan was paid off. There were other issues. There were other issues with CSAM. The whole dialogue changed. It became about a different set of issues, about Bafin and concentration of GFG exposure. It became to raise money to get the GFG out. It was all about that…. It was all about getting the concentration of GFG down. It hadn't anything to do with the investment bank. It was about getting the GFG debt off the book...".

104W. As at about 4 January 2021:

a. the SoftBank Limit, which was required to be achieved by 31 December 2020, had not been complied with;

b. a further limit, requiring a maximum of 5% exposure of the Virtuoso Sub-Fund to notes related to GFG Alliance companies (being companies associated with Mr Gupta) (**GFG Alliance Limit**), which was required to be achieved by 31 December 2020, had not been complied with;

c. Greensill was in the process of concluding its equity raise for in excess of USD$1.5 billion, on which it was being advised by Credit Suisse and Citibank, which equity raise was a source of revenue for entities within the Credit Suisse Group;

d. Greensill had intended to close that equity raise before 31 December 2020, but had not done so;

e. Greensill intended to use funds from the equity raise to, *inter alia*, pay back the CS Loan; and

f. SoftBank Vision Fund 2 had agreed in principle to invest US$250 million as part of the Capital Raise.

Particulars

Email from Mr Greensill to Mr Galligan copied to Jonathan Lane dated 3 January 2021: G/2141.

104X. On about 4 January 2021:

a. Greensill indicated to CSAM to the effect that its lead investor had received in-principle Investment Committee approval to proceed with the equity raise so long as Greensill was not in breach of supply chain finance fund rules;

b. Greensill indicated to CSAM to the effect that it could not proceed with the equity raise while it was in breach of the SoftBank Limit and the GFG Alliance Limit;

c. Greensill asked CSAM to urgently consider a proposal (the **4 January Proposal**) which permitted Greensill not to comply with the SoftBank Limit and the GFG Alliance Limit by 31 December 2020, so that it could complete the equity raise; and

d. Greensill brought the 4 January Proposal to the attention of at least Mr Varvel and Mr Sitohang.

Particulars

Emails between Mr Greensill and Mr Varvel copied to Mr Degen dated 4 January 2021: CSA.6000.0001.3794. The details of the 4 January Proposal are set out in the email from Mr Greensill. Further particulars may be provided following evidence and disclosure.

104Y. Following receipt of the 4 January Proposal from Greensill:

a. the proposal was discussed by senior management at the Credit Suisse Group, including Dr Gottstein, Ms Warner, Mr Varvel and Mr Sitohang.

Particulars

Email from Mr Varvel to Mr Greensill (copied to Mr Degen) dated 4 January 2021: CSA.6000.0001.3792.

Email from Mr Greensill to Eric Varvel (copied to Mr Degen) dated 4 January 2021: CSA.6000.0001.3794.

Email from Mr Degen to Mr Luc Mathys dated 4 January 2021, forwarding email from Mr Varvel to Mr Greensill (copied to Mr Degen) dated 4 January 2021: CSA.0001.0012.0271.

Email from Mr Varvel to Ms Warner, Mr Sitohang (copied to Mr Philipp Wehle) dated 4 January 2021, forwarding email from Mr Varvel to Mr Greensill (copied to Mr Degen) dated 4 January 2021: CSA.0001.0012.0046.

Email from Mr Varvel to Mr Degen dated 5 January 2021: CSA.5000.0002.7070.

Email from Mr Luc Mathys to Mr Degen dated 5 January 2021: CSA.0001.0012.0052.

Email chain between Mr Varvel and Mr Degen dated 5 January 2021: CSA.0001.0012.0061.

Email chain involving Nick Koemtzopoulos and Max Mesny (and others) dated between 1 January 2021 and 5 January 2021: CSA.7000.0001.2595. In an email on 5 January 2021, Mr Koemtzopoulos states: "*Lex is discussing with CSAM whether can give some latitude to agreed concentration limits regarding GFG and [CID] in the CSAM funds. Understand this has been raised at appropriate levels at CS and Shane is aware of the details*". In an email on 6 January 2021, Mr Koemtzopoulos states: "*Lex is now waiting to hear back on CSAM in next 24h. He has asked CSAM to agree to a reduction in line with Bafin, which means Greensill would be compliant on GFG and Softbank exposure by June 21 rather than Dec 20*".

Marsh does not presently know which other senior management were involved in the discussions.

Further particulars may be provided following evidence and disclosure.

b. in considering the 4 January Proposal, senior management within the Credit Suisse Group were concerned about the sizeable commercial considerations of losing Mr Greensill as an important client;

Particulars

Email from Mr Varvel to Mr Sitohang dated 5 January 2021: G/2172.1: "*I cannot unilaterally agree anything/or break commitments without Thomas's agreement (and I do believe we have confirmed trades with Lex) — further — even. if Thomas is ok, I believe there will be some negative FINMA and Board Blowback to be considered against sizable commercial considerations of losing Lex as an important client...*". Further particulars may be provided following evidence and disclosure.

c. Dr Gottstein and the Credit Suisse Group Executive Board ultimately decided to make a counter proposal to Greensill which, *inter alia*, had the effect of changing the time for compliance with the GFG Alliance Limit to 30 June 2021 and the SoftBank Limit to 31 March 2021, and on about 7 January 2021, CSAM sent the counter proposal to Greensill (**7 January Proposal**);

Particulars

Email from Mr Degen to Mr Greensill and Mr Varvel dated 7 January 2021: CSA.5000.0003.8802. The details of the 7 January Proposal are

set out in that email. Further particulars may be provided following evidence and disclosure.

d. representatives of Credit Suisse understood that part of the 7 January Proposal was that Greensill would buy back $150m Vision Fund notes as soon as possible, and grant Credit Suisse an option to purchase equity in Greensill "at current market over the next 12 months" (the **CS/Greensill Equity Option**).

Particulars

Email chain between Philippe Wehle and Mr Varvel dated 11 January 2021: CSA.0001.0011.9038. See also Deloitte Report at [6.28.6].

104Z. In making the 7 January Proposal, CSAM, at the direction of Dr Gottstein and the Credit Suisse Group Executive Board, did not insist on compliance with the SoftBank Limit and the GFG Alliance Limit before the expected capital raise, in order to facilitate Greensill overcoming the approval conditions on that capital raise.

104ZA. On about 7 January 2021, Greensill accepted the 7 January Proposal.

Particulars

Email from Mr Greensill to Mr Varvel and Michel Degen dated 7 January 2021: GCU.0006.0005.0023.

104ZB. The terms, existence and circumstances leading to the 7 January Proposal were not disclosed to investors in the Virtuoso Sub-Fund.

104ZC. By the 7 January Proposal:

a. there was a conflict of interest (or alternatively, a potential conflict of interest) between the interests of the Credit Suisse Group in obtaining significant revenue streams from an ongoing relationship with Greensill (by continuing to assist Greensill with financing and its potential IPO and/or by exercising the CS/Greensill Equity Option), and the interests of investors in the Virtuoso Sub-Fund in minimising the risks associated with their investments and/or not investing their funds (or continuing to invest their funds) in poor investments (in circumstances where the GFG Alliance Limit and the SoftBank Limit had not been met);

b. those directing, instructing, overseeing and/or making decisions on behalf of CSAM and/or CSFM with respect to the Virtuoso Sub-Fund failed to act in the best interests of investors by:

i preferring the interests of the Credit Suisse Group over the interests of those investors;

ii failing to inform those investors of the terms, existence and circumstances leading to the 7 January Proposal, and the perceived commercial benefit to the Credit Suisse Group of entering into it;

iii failing to inform those investors of the failure to meet the GFG Alliance Limit and the SoftBank Limit; and, or alternatively

iv failing to inform those investors of the conflict of interest identified in (a);

c. an incentive was created for the Credit Suisse Group to promote and protect Greensill's position in continuing to facilitate the issuance of notes, in circumstances where doing so may not have been in the interests of investors in the Virtuoso Sub-Fund; and, or alternatively

d. the credit risk of investing in the Virtuoso Sub Fund was increased.

HA CONCENTRATION RISK WITH RESPECT TO GREENSILL

HA1. The role of Greensill in the investment process for the sub-funds

104ZD. As part of the investment process for the Virtuoso Sub-Fund, CSAM (and/or CSFM) delegated to (and/or permitted) the Greensill Group to perform the following roles, with respect to Customers:

a. locating Customers whose receivables (or "future receivables") were to be acquired and to whom funds were to be advanced;

Particulars

That it was the role of the Greensill Group to locate the Customers was explained in the April 2022 AGM RFI: MAR.0008.2000.0001 (at p _0004).

See Deloitte Report at [6.8.1], [6.8.3].

b. negotiating and entering into transaction documents to acquire the receivables (or "future receivables") of those Customers and provide funding to those Customers;

c. negotiating and entering into documentation for the provision of guarantees by Customers (or entities related to or affiliated with the Customers);

d. following the entry into transaction documents, monitoring the ability of the Customers to repay their payment obligations;

Particulars

That it was the role of the Greensill Group to monitor Customers was explained in the April 2022 AGM RFI: MAR.0008.2000.0001 (at p _0004).

e. negotiating with existing suppliers to reduce the exposure of the sub-funds to certain Customers (and/or the corporate group of which they formed part).

Particulars

To the extent that CSAM and/or CSFM and/or other entities within the Credit Suisse Group sought or required a reduction in the exposure of the sub-funds to entities associated with SoftBank or entities associated with Mr Gupta, as pleaded in this Cross-Claim, CSAM and/or CSFM delegated (and/or permitted) the Greensill Group to perform that role.

104ZE. For the investment process for the Virtuoso Sub-Fund, CSAM (and/or CSFM) delegated to (and/or permitted) the Greensill Group to perform the following roles, with respect to the creation and issuing of notes:

a. generally, securitising the rights to payments with respect to the underlying receivables (or "future receivables") into notes, and structuring the notes;

Particulars

That it was the role of the Greensill Group to securitise the receivables and structure the notes was explained in the April 2022 AGM RFI: MAR.0008.2000.0001 (at p _0004).

b. performing the role of "Collateral Administrator", pursuant to which it supplied administrative services, and coordinated and prepared the terms of each notes tranche issuance;

Particulars

Within the Greensill Group, this role was played by GCUK – see letter from CSFM to CSSF dated 9 March 2021: CSA.5000.0003.9826 (at p _0001); see CSSF's "Annex 1: Context and background information": CSA.7000.0003.3918 (p 12).

c. transferring or selling rights to payments with respect to receivables (or "future receivables") into a special purpose vehicle (being Wickham, Lagoon Farm and Hoffman);

Particulars

See the reference to the role of GCUK as "seller" or transferor" in the letter from CSFM to CSSF dated 9 March 2021: CSA.5000.0003.9826 (at p _0001); see CSSF's "Annex 1: Context and background information": CSA.7000.0003.3918 (p 12).

d. acting as "Broker / Dealer" and "Arranger" for the special purpose vehicle.

Particulars

Within the Greensill Group, this role was played by Greensill Capital Securities Limited from time to time – see letter from CSFM to CSSF dated 9 March 2021: CSA.5000.0003.9826 (at p _0001); see CSSF's "Annex 1: Context and background information": CSA.7000.0003.3918 (p 12).

104ZF. For the investment process for the Virtuoso Sub-Fund, CSAM (and/or CSFM) delegated to (and/or permitted) the Greensill Group to perform the following roles, with respect to the receipt and distribution of funds:

a. acting as "Collection Agent", such that it received payments in relation to underlying payment obligations and was given responsibility for distributing receipts in accordance with the provisions of the transaction documents;

Particulars

Within the Greensill Group, this role was played by GCUK. See letter from CSFM to CSSF dated 9 March 2021: CSA.5000.0003.9826 (at p _0001). See CSSF's "Annex 1: Context and background information": CSA.7000.0003.3918 (p 12). See also Cash Collection Annexures to notes programs (e.g. Cash Collection and Allocation Annex A dated 16 April 2018: CSA.5000.0002.9340, Cash Collection and Allocation Annex J dated 27 September 2018: CSA.5000.0001.2415).

b. acting as "Administration Agent", such that it performed various reporting and late payment services in connection with the underlying payment obligations.

Particulars

Within the Greensill Group, this role was played by GCUK. See letter from CSFM to CSSF dated 9 March 2021: CSA.5000.0003.9826 (at p _0001). See CSSF's "Annex 1: Context and background information": CSA.7000.0003.3918 (p 12).

104ZG. For the investment process for the Virtuoso Sub-Fund, CSAM (and/or CSFM) delegated to (and/or permitted) the Greensill Group to perform the following roles, with respect to insurance:

a. generally, arranging and obtaining credit insurance with respect to the investments;

Particulars

See letter from CSFM to CSSF dated 9 March 2021: CSA.5000.0003.9826 (at p _0001). See CSSF's "Annex 1: Context and background information": CSA.7000.0003.3918 (p 12). See the April 2022 AGM RFI: MAR.0008.2000.0001 (at p _0004).

b. selecting insurers;

c. making disclosures to insurers in order to arrange and obtain insurance.

104ZH. In the premises pleaded at paragraphs 104ZD to 104ZG above, the Greensill Group was central to the investment process for the Virtuoso Sub-Fund, and CSAM (and/or CSFM) was reliant on the Greensill Group to give effect to that investment process.

HA2. Consequences of Greensill having a central role in the investment process for the sub-funds

104ZI. The centrality of the Greensill Group to the investment process of the Virtuoso Sub-Fund, and the reliance of CSAM (and/or CSFM) on the Greensill Group to give effect to that process, meant that if GCUK was placed into liquidation (or GCUK or other entities within the Greensill Group were otherwise no longer able to perform their roles):

a. the investment process for the Virtuoso Sub-Fund would no longer be able to function (or alternatively, there was a real and obvious risk that the investment process would no longer be able to function);

b. CSAM and/or CSFM would not have visibility as to whether the funds which had been lent to Customers were capable of being recovered; and/or

c. to the extent investor funds may have been recoverable, where the sub-funds (or any other entities within the Credit Suisse Group) were not a party to contractual arrangements with Customers, and where the flow of investment funds was controlled by Greensill, there was a real and obvious risk that the sub-funds would not be able to recover some or all of their investments, from the Customers or Greensill.

104ZJ. In the premises pleaded at paragraphs 104ZD to 104ZI above, CSAM (and/or CSFM) should never have entered into an investment process on behalf of the Virtuoso Sub-Fund which was so reliant on another corporate group, being the Greensill Group, to give effect to that investment process, particularly in circumstances where:

a. it had never invested with the Greensill Group previously;

b. it had never invested in trade credit finance previously;

c. notes based on trade credit finance with the features of the notes issued to the sub-funds were a novel product in the market (except to the extent that GAM had a similar product);

d. it did not conduct adequate due diligence prior to and about the time of the launch of the sub-funds, on the proposed investment structure or the Greensill Group itself (including the financial position of the Greensill Group), as pleaded in paragraphs ~~135~~ 86 to ~~144~~ 92 above;

e. it did not have visibility over the flow of investment funds;

f. it did not have a process in place to conduct adequate due diligence on the underlying transactions and obligors; ~~and/or~~

g. the due diligence, oversight and analysis conducted by the Greensill Group was subject to the limitations set out in the Lagoon Park Base Memorandum, Wickham Base Memorandum and the Hoffman Base Memorandum pleaded in paragraph~~s 70, 73 and 77~~53 above; and/or

h. the investment process meant that Greensill was incentivised to originate and sell as many notes as possible to the sub-funds, and was also incentivised to sell its lowest quality notes to the sub-funds.

Particulars

See Deloitte Report at [3.2.3], [6.34.1], [6.38.1].

HA3. Steps which should have been taken from September / October 2020

104ZK. Further or in the alternative, Marsh repeats paragraphs 104K and 104L above.

104ZL. Having regard to the nature and extent of the concerns about the Greensill Group which were raised by the Credit Suisse risk management team in about September and October 2020, from about September or October 2020, CSAM (and/or CSFM) should have wound down the sub-funds, or alternatively:

a. performed a risk assessment of the implications of those concerns for the future operation of the sub-funds, and the extent to which it was able to reduce the exposure of investors in the funds having regard to the concerns which had been identified

b. informed investors in the Virtuoso Sub-Fund of the concerns which had been identified with the Greensill Group, prior to CSAM investing any further funds of those investors via investments by the sub-funds, particularly given the centrality of the Greensill Group to the investment process which had been agreed to by CSAM; and/or

c. taken all available steps to seek to reduce the exposure of the investors in the Virtuoso Sub-Fund to the risk that GCUK would be placed into liquidation (and/or entities within the Greensill Group would no longer be able to perform their roles within the investment process for the Virtuoso Sub-Fund), and/or the risk that investors in the sub-funds would lose some or all of their investments.

HB. FAILURE TO ADEQUATELY CONSIDER PRICING OF NOTES

104ZM. CSAM acquired the notes which are the subject of these proceedings on behalf of the Virtuoso Sub-Fund, being notes proposed to CSAM by Greensill pursuant to the criteria set out in the warehouse facility agreements:

a. in circumstances where it had agreed to acquire the notes pursuant to the warehouse facility agreements for a fixed price which was independent of the credit risk of the underlying obligors and/or Customers; and/or

b. without adequately considering whether paying the pricing set out in the warehouse facility agreements meant that the notes were being acquired for fair value, and without adequately considering whether the approach to pricing created an incentive for Greensill to provide the sub-funds with lower quality notes.

Particulars

There was a fixed pricing for all products proposed, without considering the product specificities. The fixed pricing did not consider whether the notes were linked to single or multi obligors, or whether the rating of the obligor was high or low. This was in circumstances where the issuer types ranged from “effective” receivables from large listed companies with known ratings, to future receivables from private companies, some of them being related parties to GCUK. All receivables were packaged in notes with the same remuneration offered. The sub-funds exclusively used Greensill Capital as originator and the pricing of the notes was fixed: see Mazars Report at section 5.4 (CSA.0001.0012.0569).

See Deloitte Report at [3.2.3]:

> “The Warehousing Agreements also specified that the SCF funds were compensated by the same spread for each note they bought, irrespective of the underlying credit quality. This created an adverse incentive for Greensill Capital to sell the SCF Funds the worst available notes on any occasion (as it could potentially sell

better quality notes at a cheaper and more profitable spread elsewhere or retain them on its own balance sheet)".

See also the Deloitte Report at [6.34.1]:

"Greensill Capital's revenue was driven by the volume of notes that it originated. The respective Warehousing Agreements required CSAM to purchase all notes that were offered to the SCF Funds (provided they met the agreed criteria) and at spread that was independent of underlying quality. Greensill Capital was also selling notes to other clients and retaining some exposure on its own balance sheet. Therefore, Greensill Capital could effectively always offer the lowest quality available notes to CSAM and indeed they were incentivised to do so by the structure. The fixed pricing strategy was justified by Greensill Capital in the original due diligence because the notes were only intended to be held for the short term, and so the spread was seen as the premium for short term liquidity provision, whereas in practice notes typically were held to maturity. We have not seen evidence that CSAM attempt to challenge the fixed price of notes, even when it became clear they were being held to maturity".

This was in a context where other market counterparties also purchased notes originated by Greensill Capital: see Deloitte Report at [6.34.2] and [6.34.3].

Further particulars may be provided following evidence (including expert evidence) and disclosure.

104ZN. In the premises pleaded in 104ZM, CSAM (and/or CSFM):

a. should not have agreed to warehouse facility agreements which contained pricing which did not take into account the characteristics and credit risks of the underlying obligors and/or Customers;

b. should not have agreed to warehouse facility agreements which contained pricing which did not take into account the nature and extent of substantial fees paid to Greensill from the price paid for notes;

c. should not have agreed to pricing in the warehouse facility agreements which did not incentivise Greensill to achieve the best price or optimal credit quality of investments, having regard to the characteristics and credit risks of the underlying obligors and/or Customers; and/or

d. should not have agreed to pricing in the warehouse facility agreements which did not involve adequate consideration of whether the notes were being acquired for fair value.

Particulars

The risks of paying fixed pricing regardless of the underlying credit risks is reflected in the calculations of the value of the investments by Houlihan Lokey, who were engaged by CSAM to value the notes as at 31 March 2021 following the collapse of Greensill: CSA.5000.0004.2134.

HC. CSFM'S SAFEKEEPING DUTIES

104ZO. At all material times, Credit Suisse (Luxembourg) S.A. (**Depositary Bank**) acted as depositary bank for the Virtuoso Sub-Fund.

Particulars

See Mazars Report at p 253 (CSA.0001.0012.0569), referencing depositary and paying agent services agreements of Virtuoso dated 17 December 2013 with relevant special technical term sheets for the Virtuoso Sub-Fund;

104ZP. CSFM was required to have and implement appropriate procedures:

a. to verify that the assets acquired by the Virtuoso Sub-Fund was appropriately registered in the name of the sub-funds (or in the name of CSFM acting on behalf of the sub-funds); and

b. to check the consistency between the positions in CSFM's records, and the assets for which the depositary is satisfied that the sub-funds (or CSFM acting on behalf of the sub-funds) hold the ownership.

Particulars

See Article 90(3) of the CDR. See Mazars Report at p 143, 253, 255 (CSA.0001.0012.0569).

104ZQ. CSFM was required to have in place procedures to ensure that it could review the performance of the Depositary Bank in respect of its contractual obligations.

Particulars

See Article 83(1)(r) of the CDR. See Mazars Report at p 255 (CSA.0001.0012.0569).

104ZR. At all material times, CSFM:

a. did not perform activities or approve procedures aimed at verifying that the assets acquired by the sub-funds were appropriately registered in the name of

the sub-funds and ensuring that CSFM verified that the funds acquired ownership of the assets (i.e. receivables) in which they were supposed to invest; and/or

b. did not have in place an asset registration process by which it ensured that the sub-funds acquired the ownership of the assets (i.e. receivables) in which they were supposed to invest by means of notes.

Particulars

See Mazars Report at p 144, 253, 255 (CSA.0001.0012.0569).

104ZS. At all material times, CSFM, to the extent it conducted due diligence on the Depositary Bank:

a. the depth, nature and frequency of that due diligence was not designed or fine-tuned in accordance with the specificities and risk profiles of the sub-funds and related underlying investments; and/or

b. that due diligence did not cover the following specific processes:

i accounting reconciliation processes and exchanges of information between the Depositary Bank, CSAM, CSFM and GCUK;

ii processes related to the issuance of documentation in the case of new obligors;

iii processes covering new programs or structures involving the Depositary Bank, CSAM and GCUK;

iv ownership verifications oversight processes.

Particulars

See Mazars Report at p 144, 254 (CSA.0001.0012.0569).

104ZT. By reason of the matters pleaded at paragraphs 104ZR to 104ZS, CSFM did not comply with the requirements of safekeeping duties.

Particulars

See Mazars Report at p 144 (CSA.0001.0012.0569).

HD. FAILURE TO RESPOND TO TRIGGER EVENTS

104ZU. Further or in the alternative,

a. during the period from at least about April 2018, there were a series of events which should have caused CSAM and/or CSFM to conduct a comprehensive review of the Virtuoso Sub-Fund; and

Particulars

The events were numerous enquiries from regulators, media articles and enquiries, third party research, and issues with the GAM Greensill Supply Chain Finance Fund. Further particulars of the events, and the nature of the comprehensive review which should have been conducted, will be provided following expert evidence.

See also the Deloitte Report at [3.13.2] – "given the frequency and nature of external regulatory enquiries, there was a failure to ask more fundamental questions and examine the issues in depth".

b. CSAM (and/or CSFM) failed to conduct an appropriate review of the Virtuoso Sub-Fund in response to such events (where if such a review had been conducted, it would have led to steps being to reduce the exposure of the investors in the Virtuoso Sub-Fund).

HE. FAILURE TO CONDUCT PRODUCT APPROVAL PROCESS FOLLOWING CHANGE IN INVESTMENT OBJECTIVES

104ZV. Further or in the alternative, about 1 July 2020, there was a material change to the description of the Virtuoso Sub-Fund's investment objective in the Virtuoso Offering Memorandum;

Particulars

Particulars to be provided following expert evidence.

104ZW. In the premises pleaded in paragraph 104ZV above, CSAM and/or CSFM ought to have conducted a new approval process for the Virtuoso Sub-Fund, at about the time of the respective change to the description of the investment objective, but such a new approval process did not occur.

Particulars

Particulars to be provided following expert evidence.

H INVESTIGATION BY CREDIT SUISSE INTO THE GREENSILL MATTER

105. On dates not presently known to Marsh:

a. in about March 2021, Credit Suisse Group's Board initiated an investigation into the Greensill matter (the **CS Investigation**);

b. the CS Investigation was conducted under the direction of a committee of the Credit Suisse Group's Board;

c. Walder Wyss AG (**Walder Wyss**) was engaged to assist with the CS Investigation;

d. Deloitte Touche Tohmatsu Limited (**Deloitte**) was engaged to assist with the CS Investigation;

e. Ernst & Young was engaged to assist with the CS Investigation; and

f. Boston Consulting Group was engaged to assist with the CS Investigation.

Particulars

See April 2022 AGM RFI on p 12 (MAR.0008.2000.0001).

See Form 6-K dated 10 February 2022 (MAR.0008.2000.0010).

Further particulars may be provided following evidence and disclosure.

105A. On around 4 March 2021, the Credit Suisse Compensation Committee suspended the variable compensation payable to Thomas Gottstein, Philipp Wehle, Eric Varvel, Luc Mathys, Michel Degen, Michael John D'Angelo, Tony Patti, Emidio Morizio and Roger Machlis pending the outcome of a review and investigation of the Greensill Funds issue.

Particulars

Email from Urs Rohner to Jan Bloechilger (FINMA) dated 5 March 2021: CSA.5000.0008.0743.

106. In about late 2021 and/or early 2022, findings of the CS Investigation prepared by Deloitte and Walder Wyss were presented to representatives of the Credit Suisse Group.

Particulars

Preliminary findings were initially presented to representatives of the Credit Suisse Group in about December 2021. By about February 2022, the report had been completed. Further and better particulars may be provided following evidence and disclosure.

107. In about late 2021 and/or early 2022, findings of the CS Investigation (and/or preliminary findings of the CS Investigation) prepared by Deloitte and Walder Wyss were shared with FINMA.

Particulars

See statement from Simone Meier of Credit Suisse on about 23 December 2021: "Based on the preliminary findings of the investigation

which have been shared with the regulators". See Form 6-K dated 10 February 2022 (MAR.0008.2000.0010).

108. The CS Investigation found, at least, that:

a. managers and employees could have averted reputational damage and economic failure if they had conducted themselves in prior years more appropriately;

b. various managers and employees were responsible for economic failure associated with the Virtuoso Sub-Fund;

c. various managers and employees were responsible for reputational damage associated with the Virtuoso Sub-Fund;

d. conduct by managers and employees was a violation of policies on management and supervision;

e. there were weaknesses in existing controls for the approval and monitoring of fund products;

f. governance structures within Credit Suisse required revision; and

g. a wide range of organisational measures needed to be adopted in response to failings with respect to the Greensill matter.

Particulars

See April 2022 AGM RFI on p 9 and 12. See findings published by FINMA on 28 February 2023 – "FINMA concludes "Greensill" proceedings against Credit Suisse" (**FINMA Findings**), under the heading "Internal investigation by Credit Suisse" (MAR.0008.2000.0013). The full CS Investigation has not been discovered by UBS to date. Further and better particulars may be provided following evidence and disclosure.

109. The managers and employees described in paragraph 108:

a. included in excess of 10 representatives of the Credit Suisse Group (including CSAM and/or CSFM); and

b. included Mr Degen, Mr Mathys and Mr Haas.

Particulars

See the April 2022 AGM RFI on p 12 (MAR.0008.2000.0001). See media reporting – e.g. Bloomberg article dated 23 December 2021: "Credit Suisse Fires Managers Tied to Failed Greensill Funds" (MAR.0008.2000.0009); Financial Times article dated 23 December

2021: “Credit Suisse fires two managers responsible for Greensill funds” (MAR.0008.2000.0008).

110. The FINMA Findings:

a. reinforced many of the findings of the CS Investigation; and

b. contained many findings to the same effect, or substantially the same effect, as the findings of the CS Investigation.

Particulars

Statement by Ulrich Körner on about 28 February 2023: “Finma’s review has reinforced many of the findings of the board-initiated independent review” (MAR.0008.2000.0012). See also FINMA Ruling: CSA.0001.0011.7753 at [134]. Further and better particulars may be provided following evidence and disclosure.

111. Based on the findings of the CS Investigation, at least the following steps were taken:

a. a wide range of organisational measures were adopted by Credit Suisse;

b. governance structures within Credit Suisse were revised;

c. control processes for the approval and monitoring of fund products were strengthened;

d. the employment of Mr Degen was terminated;

e. the employment of Mr Mathys was terminated;

f. the employment of Mr Haas was terminated;

fa the employment of Mr Milenkovic was terminated;

fb. the employment of Mr Hehenkamp was terminated;

fc. the employment of Mr Varvel was terminated;

fd. the employment of Ms Warner was terminated;

fe. the employment of Rudolf Komen (Director, CEO of CSFM) was terminated;

ff. the employment of Hans-Christoph Voges (General Counsel, CSAM) was terminated;

g. a total of 10 employees (including Mr Degen, Mr Mathys, Mr Haas, Mr Milenkovic, Mr Hehenkamp, Mr Varvel, Ms Warner, Mr Komen and Mr Voges) within the Credit Suisse Group had their employment terminated;

h. the 10 employees whose contracts were terminated had their 2021 bonus cancelled, and deferred compensation from previous years was cancelled insofar as this was considered to be legally possible; and

i. additional employees received disciplinary measures, and had their 2021 bonus reduced.

Particulars

See FINMA Findings under the heading "Internal investigation by Credit Suisse".

See April 2022 AGM RFI on p 12 (MAR.0008.2000.0001).

See statement from Simone Meier of Credit Suisse on about 23 December 2021: "Based on the preliminary findings of the investigation which have been shared with the regulators, CS has taken action with regards to various individuals. These actions include termination of employment and severe monetary penalties via compensation adjustments. External investigations are still ongoing".

See media reporting – e.g. Bloomberg article dated 23 December 2021: "Credit Suisse Fires Managers Tied to Failed Greensill Funds" (MAR.0008.2000.0009), Financial Times article dated 23 December 2021: "Credit Suisse fires two managers responsible for Greensill funds" (MAR.0008.2000.0008).

Further and better particulars may be provided following evidence and disclosure.

112. CSAM's reasons for termination of Mr Haas included, at least, that:

a. he was aware of the main problems and risks in the sub-funds, including exposure to GFG (i.e. entities associated with Mr Gupta) and future receivables;

b. that while Mr Haas had resisted pressure from GCUK regarding the increase of such exposure and future receivables, and he was ultimately overruled by two other employees, and he did not escalate the incidents of being overruled;

c. he breached the following regulations:

i GP-00012 Escalation

ii GP-0001 5 General Principles of Effective Supervision

iii CM-10000 Bank Compliance Manual

iv Code of Conduct.

Particulars

See letter entitled “Termination of Employment Relationship” to Lukas Haas dated 17 December 2021 (CSA.0001.0011.7382). Further particulars may be provided following evidence and disclosure.

113. CSAM’s reasons for termination of Mr Mathys included, at least, that:

a. he had a central role in the management of the sub-funds and was closely involved in the day to day discussion with GCUK;

b. he failed to take action in spite of clear signs of problems, in particular with regard to GFG and SoftBank exposure and the behaviour of Mr Greensill;

c. he overruled the portfolio manager when the portfolio manager rejected trades and was attempting to reduce the exposure to GFG;

d. he failed to escalate issues and he attempted to hide problems, even resorting to disseminating incorrect information;

e. he was relied upon to provide information on the sub-funds (for example, press inquiries and drafting memorandum), but the information he provided was inaccurate, in some cases appeared to have been deliberately misleading or important information was omitted, and in other cases was factually incorrect;

f. he concentrated on “saving” the sub-funds and the relationship with Mr Greensill and GCUK, and did not concentrate on the problems which the sub-funds had;

g. he breached the following regulations:

i GP-0001 2 Escalation;

ii GP-00293 Identification and management of Conflicts of Interest;

iii GP-0001 5 General Principles of Effective Supervision;

iv CM-1 0000 Bank Compliance Manual; and

v Code of Conduct

Particulars

See letter entitled “Termination of Employment Relationship as Part of a Disciplinary Measure – Level 5” to Mr Mathys dated 17 December 2021 (CSA.0001.0011.7385). Further particulars may be provided following evidence and disclosure.

114. CSAM’s reasons for termination of Mr Degen included, at least, that:

a. he failed to take action in spite of clear signs of problems (in particular with regard to GFG and SoftBank exposure and the behaviour of Mr Greensill);

b. he concentrated efforts on avoiding the reputational consequences and defending the sub-funds as well as Mr Greensill instead of solving the problems of the sub-funds;

c. he failed to address problems and to escalate to senior levels;

d. he failed to set up the business to manage the risks within the sub-funds;

e. he was a pivotal person in setting a culture around the sub-funds that was internally focused and did not transparently communicate the risks;

f. an aggravating fact was that he cautioned direct reports to be careful internally with the information related to the sub-funds and their exposure;

g. he overrode the Portfolio Manager to accept notes from Greensill that had been rejected;

h. he breached the following regulations:

(i) GP-00012 Escalation

(ii) GP-00293 Identification and management of Conflicts of Interest

(iii) GP-00015 General Principles of Effective Supervision

(iv) CM-10000 Bank Compliance Manual

(v) Code of Conduct.

Particulars

See letter entitled “Termination of Employment Relationship as Part of a Disciplinary Measure – Level 5” to Mr Degen dated 17 December 2021 (CSA.0001.0011.7388). Further particulars may be provided following evidence and disclosure.

114A. CSAM’s reasons for terminating Mr Milenkovic included, at least, that:

a. he failed to ensure that the business was able to monitor key risk exposures to the sub-funds;

b. even though he attended key meetings regarding future receivables and GFG’s control of collection accounts, he did not take action to monitor or manage the associated risks;

c. he did not see the risks connected with the sub-funds and did not make the necessary inquiries when he “saw hints”;

d. he did not act when he actually saw risks;

e. an aggravating fact was that he had ample opportunity be aware of the risks associated with future receivables and GFG related matters;

f. he was required to present at the IROC deep dive into the sub-funds, and while in fact Mr Mathys presented with Mr Milenkovic in attendance, no issues were discussed or raised by Mr Milenkovic;

g. he breached the following regulations:

i GP-00012 Escalation;

ii GP-00015 General Principles of Effective Supervision;

iii CM-10000 Bank Compliance Manual; and

iv Code of Conduct.

Particulars

Memorandum re 'Termination of Employment' dated 17 December 2021: CSA.0001.0012.0458.

Notice of Termination dated 20 June 2022: CSA.0001.0012.0479.

115. The matters pleaded at each of paragraphs 112 to 114B above:

a. were matters which CSAM (and/or CSFM) believed to be true and correct;

b. were in fact true and correct;

c. reflected findings of the CS Investigation;

d. in the alternative to (c), reflected findings of other internal investigations by entities within the Credit Suisse Group following the collapse of Greensill.

115A. Certain of the employees who were terminated by CSAM were allocated by a "culpability" score and an "accountability" score on scale of 1-10 (with 10 being the highest ranking on the scale), including as follows:

a. Mr Varvel was given a culpability score of 7 and an accountability score of 9;

b. Mr Degen was given a culpability score of 10 and an accountability score of 10;

c. Mr Mathys was given a culpability score of 10 and an accountability score of 10;

d. Mr Milenkovic was given a culpability score of 8 and an accountability score of 9;

e. Mr Haas was given a culpability score of 6 and an accountability score of 10;

f. Mr Voges was given a culpability score of 8 and an accountability score of 6;

g. Mr Hehenkamp was given a culpability score of 9 and an accountability score of 9.

Particulars

Project Blue – Defined Measures – Presentation for the Board of Directors – by Credit Suisse Human Resources dated 1 December 2021: CSA.5000.0008.2444.

115B. Staff who were found by CSAM to have breached regulations, but did not have their employment terminated included, at least:

a. Guy Reiter, Chief Compliance Officer for CSAM, who:

i was directly responsible for marketing material, in circumstances where the wording of that material had led to problems with investors;

ii was found to have been passive in the SoftBank Side Letter matter;

iii was found to have overlooked the conflict of interest with Greensill and with GFG and not taken any action to remedy the situation;

iv was found to have acted in a manner that breached the following regulations:

i. GP-00012 Escalation

ii. GP-00293 Identification and management of Conflicts of Interest

iii. GP-00015 General Principles of Effective Supervision

iv. CM-10000 Bank Compliance Manual

v. Code of Conduct;

Particulars

Memorandum re ‘Letter of Education’ dated 17 December 2021: CSA.0001.0012.0469.

b. Dominique Deleze, Head Product Development and Management Switzerland for CSAM, who:

i was found to have not reacted to increased risk and not escalated such risk and other problems, but rather tried to circumvent issues and thereby exposed the bank to unnecessary risk;

ii was found to have acted in a manner that breached the following regulations:

i. GP-00012 Escalation;

ii. GP-00015 General Principles of Effective Supervision;

iii. CM-10000 Bank Compliance Manual;

iv. Code of Conduct;

Particulars

Memorandum re 'Reprimand with Final Warning' dated 17 December 2021: CSA.0001.0012.0462.

c. Kathrin Isch, head of compliance, CSAM, who:

i was responsible for the review of marketing material, where the wording of the prospectus created risks of disputes with clients;

ii as a core member of the management team and responsible for business risk, did not react to news regarding problems with Greensill and GFG;

iii was found to have acted in a manner that breached the following regulations:

i. GP-00012 Escalation;

ii. GP-00015 General Principles of Effective Supervision;

iii. CM-10000 Bank Compliance Manual;

iv. Code of Conduct;

Particulars

Memorandum re 'Letter of Education' dated 17 December 2021: CSA.0001.0012.0475.

I GENERAL FAILURES BY CSFM

I1 Failures in oversight of CSAM by CSFM

116. CSFM, in its oversight of CSAM with respect to the Virtuoso Sub-Fund, ought to have performed adequate due diligence on CSAM's portfolio management of the Virtuoso Sub-Fund and ought to have implemented formalised assessments and controls over CSAM's portfolio management setup, by reason of:

a. the obligation pleaded at paragraph 69 above; and/or

b. CSFM's contractual obligations under the Virtuoso Management Agreement pleaded at paragraphs 59 to 63 and 66 above.

117. CSFM failed in its oversight of CSAM with respect to the Virtuoso Sub-Fund, because:

a. it did not perform specific due diligence work (or in the alternative, it did not perform adequate specific due diligence work) on CSAM's portfolio management of the Virtuoso Sub-Fund, in the context of the specific investment process with Greensill;

b. it did not perform any amended due diligence assessment (or in the alternative, it did not perform any adequate due diligence assessment) on CSAM when there were significant changes to the investment process with Greensill over time; and

c. it did not implement formalised assessments and controls over CSAM concerning the portfolio management setup for Virtuoso Sub-Fund.

Particulars

See the "Administrative sanction of 5 December 2024 for non-compliance with professional obligations related to general requirements, organisational requirements, oversight of delegates, disclosure to investors, risk and liquidity management systems, conflicts of interest and valuation" issued by the Commission de Surveillance du Secteur Financier (**CSSF**) on 20 December 2024 in Luxembourg (**CSSF Sanction**), under the heading "Context and major cases of non-compliance with the professional obligations identified" at (i) (MAR.0008.2000.0014). See also the CSSF Breach Annexure at sections 1.3 to 1.5 (CSA.7000.0003.3919).

The obligations which CSFM is alleged to have failed to perform are those pleaded in the preceding paragraph and identified in this sub-paragraph of the CSSF Sanction and those sections of the CSSF Breach Annexure.

I2 Failures in disclosures to investors

118. CSFM ought to have disclosed to investors in the Virtuoso Sub-Fund an adequate description of risks relating to insurance coverage, as well as description of fees charges, and expenses borne by investors, by reason of:

a. the obligations pleaded at paragraph 70 above; and/or

b. CSFM's contractual obligations under the Virtuoso Management Agreement pleaded at paragraphs 59 to 63 and 66 above.

119. CSFM:

a. failed to disclose to investors in the Virtuoso Sub-Fund an adequate description of the risks relating to the insurance coverage in place for some notes in which it invested; and

b. failed to inform investors of fees paid to or withheld by Greensill from the sub-fund, despite this representing material information for the investors in the fund.

Particulars

See CSSF Sanction at (ii). See also the CSSF Breach Annexure at section 2 (CSA.7000.0003.3919). The obligations which CSFM is alleged to have failed to perform are those pleaded in the preceding paragraph and identified in this sub-paragraph of the CSSF Sanction and this section of the CSSF Breach Annexure. See also CSA.5000.0003.5960.

See Deloitte Report at [3.9.2].

I3 Failures in approach to investments

120. CSFM ought to have taken adequate steps to ensure and verify that investment policies, strategies and limits of the Virtuoso Sub-Fund was implemented and complied with by reason of:

a. the obligations pleaded at paragraphs 69 and 71 above; and/or

b. CSFM's contractual obligations under the Virtuoso Management Agreement pleaded at paragraphs 59 to 63 and 66 above.

121. CSFM:

a. failed to ensure and verify on a periodic basis (or in the alternative, failed to adequately take steps to ensure and verify on a periodic basis) that the general investment policy, the investment strategies and risk diversification limits of the Virtuoso Sub-Fund was properly and effectively implemented and complied with;

b. failed to verify (or in the alternative, failed to adequately verify) the existence and nature of the receivables underlying the notes bought by CSAM on behalf of the Virtuoso Sub-Fund;

c. failed to verify (or in the alternative, failed to adequately verify) that the types of notes in which CSAM invested on behalf of the Virtuoso Sub-Fund effectively corresponded to the types defined in the investment policy and instruments of the fund as described in the successive versions of their offering documents;

d. by reason of the matters pleaded in the sub-paragraphs above, did not at all times act with due skill, care and diligence and did not have and effectively

employ the resources and procedures that are necessary for the proper performance of its business activities;

e. did not have in place adequate internal control mechanisms ensuring that the assets of the fund were invested in accordance with the management regulations or instruments of incorporation, having regard to the nature of the fund; and

f. by reason of the matters pleaded in (e), was not able to monitor effectively at any time the delegated portfolio management activity of CSAM and did not review the services (or in the alternative, adequately review the services) provided by CSAM on an ongoing basis, in circumstances where CSFM did not monitor (or in the alternative, did not adequately monitor) whether CSAM complied with the investment policy on an ongoing basis.

Particulars

See CSSF Sanction at (iii). See CSSF Breach Annexure at sections 3.3 and 3.6 (CSA.7000.0003.3919). The obligations which CSFM is alleged to have failed to perform are those pleaded in the preceding paragraph and identified in this sub-paragraph of the CSSF Sanction and those sections of the CSSF Breach Annexure.

122. In the circumstances pleaded in paragraph 120 above, CSFM's senior management did not ensure and verify (or in the alternative, did not take adequate steps to ensure and verify) on a periodic basis that the general investment policy, the investment strategies and the risk limits of the Virtuoso Sub-Fund were properly and effectively implemented and complied with.

Particulars

See CSSF Sanction at (vii) and section 7.3 of the CSSF Breach Annexure (CSA.7000.0003.3919). The obligations which CSFM is alleged to have failed to perform are those pleaded paragraph 120 and identified in this sub-paragraph of the CSSF Sanction and this section of the CSSF Breach Annexure.

I4 Failures to implement adequate risk management systems

123. CSFM ought to have implemented adequate risk management systems directed to the risks to which the Virtuoso Sub-Fund was exposed by reason of:

a. the obligations pleaded at paragraph 72 above; and/or

b. CSFM's contractual obligations under the Virtuoso Management Agreement pleaded at paragraphs 59 to 63 and 66, above.

123A. Further or in the alternative, with respect to notes backed by supplier payment undertakings in general, and notes backed by future accounts receivable in particular:

a. CSFM's risk management systems did not adequately capture the credit risks where:

i its permanent risk management function failed to identify and monitor the credit risk exposure to the suppliers (i.e. the accounts receivable sellers) resulting from investments in notes backed by supplier payment undertakings in general, and for notes backed by future accounts receivable in particular, and only registered the hypothetical credit risk exposure to future or prospective buyers;

ii the risk management systems at the level of the AIFM failed to identify, measure, manage, monitor and report the concentration exposures of suppliers;

iii CSFM was not aware of instances in which future accounts receivable ever materialised into buyer-confirmed receivables;

b. as a consequence of the credit risk management failures, there was no adequate reporting to senior management of CSFM on the credit risk and concentration risk originating from investments in notes backed by supplier payment undertakings in general, and for notes backed by future receivables in particular, as no reporting on the exposure to suppliers existed;

c. because the permanent risk management function failed to correctly identify the credit and concentration risk exposure to the suppliers resulting from notes backed by supplier payment undertakings, it also failed to define and monitor appropriate concentration limits for these exposures, thus failing the obligation to establish and implement quantitative and qualitative risk limits, of both, for each fund it managed, taking into account all relevant risks;

d. as CSFM did not track whether and when future accounts receivable materialised into real accounts receivable, the permanent risk management function could not monitor which notes backed by future accounts receivable benefitted from recourse provisions once accounts receivable had materialised and payment from the buyers was due, meaning that the credit risk exposure to accounts receivable sellers resulting from recourse provisions was not monitored, and there was no reporting of such exposure to the senior management and directors of CSFM.

Particulars

See CSSF Breach Annexure at section 4.3 under the heading “Credit Risk – Notes backed by supplier payment undertakings and Notes backed by Future AR” (CSA.7000.0003.3919).

123B. Further or in the alternative, with respect to insurance arrangements, failed to conduct an adequate assessment of insurance risks relating to the notes.

Particulars

See CSSF Breach Annexure at section 4.3 under the heading “Risks relating to insurance coverage of the SCF Notes” (CSA.7000.0003.3919).

123C. Further or in the alternative, with respect to concentration risks relating to exposure to groups / alliances of companies / businesses linked to a common beneficial owner:

a. the risk management systems of CSFM, for which the permanent risk management function was responsible, failed to identify, measure, manage and monitor in due time the concentration exposure to businesses that belonged to the same group / alliance of companies or that were linked to a common ultimate beneficial owner, for both buyer and supplier companies;

b. on several occasions, the sub-funds therefore amassed substantial exposure to companies / alliances of companies belonging to the same group;

c. the permanent risk management function generally only considered credit exposure to buyer obligors, meaning the concentration risk relating to suppliers was not monitored;

d. as a consequence of the permanent risk management function’s failure to identify concentration exposures to businesses that belonged to the same group of companies or that were linked to a common ultimate beneficial owner, there was no adequate reporting to the senior management and directors of CSFM on the risks originating from, and no identification by CSFM of concentration risks linked to, such group of companies, preventing prompt and appropriate action being taken.

Particulars

See CSSF Breach Annexure at section 4.3 under the heading “Concentration risks – Exposure to groups / alliances of companies / businesses linked to a common ultimate beneficial owner” (CSA.7000.0003.3919).

123D. Further or in the alternative, with respect to concentration risks relating to insurance coverage:

a. CSFM's permanent risk management function did not monitor the concentration of exposure to insurance companies on a regular basis;

b. CSFM did not identify concentration risks linked to the insurers of the notes;

c. there was no risk factor on insurance concentration in the sub-funds' risk profile or in the risk management policy;

d. there was no adequate reporting to senior management and directors of CSFM on insurance concentration risks;

e. as a consequence of the failure of the permanent risk management function to identify insurance concentration risk, the concentrated exposure to IAL / CSFM was not escalated within CSFM, and no alternative measures and strategies as well as appropriate actions to diversify insurance coverage were developed.

Particulars

CSSF Breach Annexure at section 4.3 under the heading "Concentration risks – insurance coverage" (CSA.7000.0003.3919).

123E. Further or in the alternative, to the extent CSFM (and/or CSAM) did have information on underlying debtors, it relied upon information provided to it or prepared by Greensill and failed to independently verify that information.

Particulars

See email from Francesca Prym of UBS to CSSF dated 16 August 2024: CSA.7000.0003.3806. See also CSA.7000.0003.3919 at _0048.

124. In the premises, CSFM:

a. failed to implement adequate risk management systems to address all relevant risks to which the Virtuoso Sub-Fund was exposed;

b. failed to implement adequate risk management systems with necessary and adequate techniques, tools and arrangements for assessing the exposure of the Virtuoso Sub-Fund to all relevant risks to which the fund was or might have been exposed;

c. failed to implement risk management systems which addressed in an adequate manner the credit risk relating to notes;

d. failed to implement risk management systems which addressed in an adequate manner risks relating to the insurance coverage of the notes (to the extent investment in the notes was subject to insurance);

e. failed to implement risk management systems which addressed in an adequate manner the concentration risks in relation to the insurance coverage in place for the notes (to the extent investment in the notes was subject to insurance);

f. failed to implement a risk management policy (and related arrangements, processes and techniques) for assessing the exposure of the Virtuoso Sub-Fund to all relevant risks, having regard to the nature, scale and complexity of the Virtuoso Sub-Fund.

Particulars

See CSSF Sanction at (iv). See also section 4.3 of the CSSF Breach Annexure (CSA.7000.0003.3919). The obligations which CSFM is alleged to have failed to perform are those pleaded in the preceding paragraph and identified in this sub-paragraph of the CSSF Sanction and this section of the CSSF Breach Annexure.

125. CSFM's permanent risk management function:

a. failed to assess, monitor and periodically (at least annually) review (or in the alternative, failed to adequately assess, monitor and periodically review) the adequacy and effectiveness of its risk management policy and related arrangements, processes and techniques;

b. failed to conduct a review (or in the alternative, failed to conduct an adequate review) following significant changes to the investment strategy and objectives of the sub-fund and/or external events which indicated that an additional review was required;

c. did not provide to senior management and the board of directors of CSFM a comprehensive overview of the risks of the Virtuoso Sub-Fund, where the failure of CSFM to establish, implement and maintain an adequate risk management policy identifying all relevant risks meant that the risk management reporting did not provide for a coverage of all relevant risks, including specific risks linked to the set-up of the fund.

Particulars

See CSSF Sanction at (iv). See also section 4.3 of the CSSF Breach Annexure (CSA.7000.0003.3919).

I5 Failures to employ appropriate liquidity management system

126. CSFM ought to have implemented a liquidity management system which was appropriate to the notes in which it was investing by reason of:

a. the obligations pleaded in paragraph 73; and/or

b. CSFM's contractual obligations under the Virtuoso Management Agreement pleaded at paragraph 63 above.

127. CSFM did not implement for a prolonged period of time an appropriate liquidity management system and related procedures to assess in an adequate manner the asset liquidity risk of the notes, as the system in place did not reflect correctly the potentially low liquidity of the notes, set out in the offering documents and in the risk profiles of the Virtuoso Sub-Fund.

Particulars

See CSSF Sanction at (iv). See sections 4.4 and 4.5 of the CSSF Breach Annexure (CSA.7000.0003.3919). See Final Mazars Report (CSA.0001.0012.0569) under the heading "Liquidity Risk" on pages 177 - 180). The obligations which CSFM is alleged to have failed to perform are those pleaded in the preceding paragraph and identified in this sub-paragraph of the CSSF Sanction and those sections of the CSSF Breach Annexure.

127A. Further or in the alternative, after the investment by SoftBank in the Virtuoso Sub-Fund in about March 2020, CSFM (and/or CSAM) did not consider the underlying liquidity mismatch in the sub-funds or whether there were any structural weaknesses in the GCUK business model on which the sub-funds relied.

Particulars

See Deloitte Report at [3.8.2], [6.65.1] and [6.65.5].

I6 Failures with respect to preferential treatment and management of conflicts of interest

128. CSFM ought to have identified and appropriately addressed any conflicts of interest arising with respect to the Virtuoso Sub-Fund, including compliance with the offering documents of the sub-fund by reason of:

a. the obligations pleaded at paragraph 74 above; and/or

b. CSFM's contractual obligations under the Virtuoso Management Agreement pleaded at paragraphs 59 to 62 and 66 above.

129. CSFM:

a. failed to identify in due time a conflict of interest which existed at the level of Greensill acting as sole originator of the Virtuoso Sub-Fund, in particular, that multiple investments made by CSAM on behalf of the fund, upon proposals of

Greensill, were made in a context where there was a conflict or potential conflict, between the interests of Greensill on the one hand and the interests of the sub-fund and its investors on the other hand, exposing the investments to the risk that Greensill would not be objective in the sourcing of notes, and thus exposing investors to a material risk of damage;

b. failed to record the conflict of interest pleaded in sub-paragraph (a) in its conflicts of interest registers;

c. in circumstances where it had failed to identify (in due time) the conflict of interest pleaded in sub-paragraph (a), failed to manage and monitor that conflict in an adequate manner; and

d. in circumstances where it had failed to identify (in due time) the conflict of interest pleaded in sub-paragraph (a), failed to inform investors about conflicts of interest for which management and monitoring efforts were revealed to be ineffective.

Particulars

See CSSF Sanction at (v). See also the CSSF Breach Annexure at section 5 (CSA.7000.0003.3919). The obligations which CSFM is alleged to have failed to perform are those pleaded in the preceding paragraph and identified in this sub-paragraph of the CSSF Sanction and this section of the CSSF Breach Annexure.

CSFM Conflicts of Interest Register: CSA.5000.0004.5453 (December 2019); CSA.5000.0004.2733 (February 2021).

Eg see the descriptions in the Deloitte Report at [3.2.3], [3.14.1]-[3.14.2], [6.38.2]. [6.39.1], [6.39.3], [6.44.1] (and paragraph [16A] above), [6.62.2]-6.62.3], [6.66.4], [6.100.1]-[6.100.5], [6.139.3].

IA GENERAL FAILURES BY CSFS / CSFM REGARDING VALUATION PROCESSES

IA1 Failures in valuation of assets

129A. By an Administration Services Agreement, CSFM appointed CSFS as central administration agent for the sub-funds.

Particulars

Administration Services Agreement dated 18 March 2016: CSA.0001.0011.8900. A version of the appendix as at 18 January 2021 is at CSA.0001.0011.8903.

129B. It was term of the Administration Services Agreement that:

a. CSFS agreed to act in accordance with the Articles or Management Regulations, as the case may be, Luxembourg Law and any applicable regulations in force from time to time of the Grand-Duchy of Luxembourg;

Particulars

Clause I(1) of the Administration Services Agreement.

b. CSFS was required to value the assets of the sub-funds and calculate the net asset value of units in the sub-funds; and

Particulars

Clause I(1)(b) of the Administration Services Agreement.

c. in the performance of its duties, CSFS was at all times to be subject to the control of, supervision and review by CSFM (or the sub-funds).

Particulars

Clause IV(10) of the Administration Services Agreement.

129C. At all material times, with respect to the Virtuoso Sub-Fund, where CSFS caused damage to the Virtuoso Parent by its negligence, it was liable to the relevant parent entity.

Particulars

Articles 1382 and 1383 of the Civil Code of the Grand-Duchy of Luxembourg.

130. In valuing the sub-funds' notes, CSFM and/or CSFS ought to have had in place appropriate and complete valuation policies, procedures and methods for the notes held by the Virtuoso Sub-Fund by reason of:

a. the obligations pleaded at paragraph 75 above;

b. CSFM's contractual obligations under the Virtuoso Management Agreement pleaded at paragraphs 59 to 63 and 66 above;

c. CSFS's contractual obligations under the Administration Services Agreement pleaded at paragraphs 129C(a) and (b) above;

d. CSFS's obligation not to act negligently, pleaded at paragraph 129C above; and/or

e. CSFM's contractual obligation under the Administration Services Agreement pleaded at paragraph 129B(c) above.

131. CSFM and/or CSFS did not have in place complete valuation policies and procedures, because the policies and procedures:

a. did not contain specific information on the valuation method used for the notes held by the Virtuoso Sub-Fund; and

b. did not include any controls for the ongoing valuation process during the lifespan of the Virtuoso Sub-Fund and did not foresee any ongoing valuation checks at asset level.

Particulars

See CSSF Sanction at (vi). See also the CSSF Breach Annexure at section 6.3 (CSA.7000.0003.3919). As described in that annexure, *inter alia*, the valuation policies and procedures in place at the level of CSFM and CSFS did not include any controls put in place for the ongoing valuation process during the regular lifespan of the funds, and did not foresee any ongoing valuation checks at asset level (see page 119 of 127).

The obligations which CSFM and/or CSFS are alleged to have failed to perform are those pleaded in the preceding paragraph and/or identified in the CSSF Sanction and CSSF Breach Annexure.

132. CSFM and/or CSFS failed to perform regular assessments of the adequacy of its asset valuation method, as there were no regularly conducted comprehensive impairment tests / checks, adapted to the credit risk profile and related mitigants, for the notes held by the Virtuoso Sub-Fund.

Particulars

See CSSF Sanction at (vi). See also the CSSF Breach Annexure at section 6.4 (CSA.7000.0003.3919). As described in that annexure, *inter alia*, (1) impairment tests were only limited to isolated ad-hoc cases of defaulted notes, and (2) impairment tests / checks, based on the credit quality of some notes held by the funds would have been a necessity for ensuring an appropriate valuation of the notes. For the funds, no regular ongoing impairment tests were implemented to identify any significant changes in the market value compared to the amortised cost valuation. The impairment tests were limited to defaulted notes and did not take due account of the credit risk profile of the notes (e.g. credit quality, insurance coverage).

The obligations which CSFM and/or CSFS are alleged to have failed to perform are those pleaded in paragraph 130 and/or identified in the CSSF Sanction and CSSF Breach Annexure.

132A. CSFM and/or CSFS:

a. did not have in place a sufficiently designed and implemented valuation framework for the sub-funds;

b. had in place insufficient valuation policies and procedures for the sub-funds;

c. had in place impairment tests limited to defaulted notes which did not take due account of the credit risk profile of the notes (such as the different credit quality of the obligors / suppliers, the concluded insurance coverage and the loss absorption mechanism); and/or

d. were unable to continuously ensure the appropriateness of the amortised cost valuation for assets held by the sub-funds.

Particulars

See CSSF Breach Annexure at section 6.5 (CSA.7000.0003.3919). The obligations which CSFM and/or CSFS are alleged to have failed to perform are those pleaded in paragraph 130 and/or identified in that section of the CSSF Breach Annexure.

132B. In the premises, CSFM's senior management failed to ensure that valuation and policies were established an implemented in accordance with Luxembourg law.

Particulars

See CSSF Breach Annexure at section 7.4 (CSA.7000.0003.3919).

J GENERAL FAILURES BY CSAM

J1 Failures in oversight of Greensill by CSAM

133. CSAM ought to have performed and implemented appropriate oversight over Greensill, having regard to the nature of the investment process which it had implemented with Greensill, by reason of:

a. the obligations pleaded at paragraph 85 above; and/or

b. CSAM's contractual obligations under the Portfolio Management Agreement pleaded at paragraphs 81 to 83 above.

134. CSAM failed in its oversight of Greensill with respect to the Virtuoso Sub-Fund, because:

a. it did not perform adequate specific due diligence work on Greensill, in the context of the specific investment process with Greensill;

b. it did not perform any amended due diligence assessment (or in the alternative, it did not perform any adequate due diligence assessment) on Greensill when there were significant changes to the investment process with Greensill over time; and

c. it did not implement formalised assessments and controls over Greensill concerning the investment process for the Virtuoso Sub-Fund.

134A. Further or in the alternative, where it had effectively delegated the selection of receivables and review to Greensill, CSAM should have had in place processes which:

a. required Greensill to confirm adherence by Customers to the agreed terms of transactions, and have in place processes to seek to detect any variances to agreed terms, credit deterioration or credit events, or operational failures;

b. required Greensill to confirm and verify the actual trade receivables it obtained from Customers;

c. in the event that there was a credit deterioration or actual portfolio loss, provided for the cessation of further funding, or reduction of exposures by hedging or disposition of assets;

d. allowed it to control cash flows relating to trade receivables payments, and/or allowed it to observe and review the cash flows handled by the Customer and Greensill;

e. sought to verify the terms of insurance coverage obtained by Greensill and analyse whether that insurance cover would cover hypothetical default and loss scenarios (including involving fraud), having regard to the nature of the underlying transactions being arranged by Greensill;

f. sought to verify the value of any indemnity provided by GCUK, and understand why an entity in GCUK's position as a finance intermediary would adopt the unusual position of being prepared to offer an indemnity;

g. assessed, or required Greensill to assess, the value of any guarantees provided by Customers or entities related to them.

134B. Further or in the alternative, CSAM should not have delegated discretionary investment management powers to Greensill, in circumstances where Greensill was not authorised by a financial service regulator to undertake discretionary portfolio management.

J2 Failures in disclosures to investors

135. CSAM ought to have disclosed to investors in the Virtuoso Sub-Fund an adequate description of risks relating to insurance coverage, as well as a description of fees charges, and expenses borne by investors, by reason of:

a. the obligations of Swiss law pleaded at paragraph 85 above;

b. CSAM's contractual obligation to act strictly in accordance with the legal and regulatory requirements applicable to CSFM as pleaded at paragraph 80 above, and accordingly, the legal and regulatory obligations pleaded at paragraph 70 above; and/or

c. CSAM's contractual obligations under the Portfolio Management Agreement pleaded at paragraphs 81 to 83 above.

136. CSAM:

a. failed to disclose to investors in the Virtuoso Sub-Fund an adequate description of the risks relating to the insurance coverage in place for some notes in which the fund invested; and

b. failed to inform investors of fees paid to or withheld by Greensill from the sub-fund, despite this representing material information for the investors in the fund.

J3 Failures in approach to investments

137. CSAM ought to have taken adequate steps to ensure and verify that investment policies, strategies and limits of the Virtuoso Sub-Fund were implemented and complied with, by reason of:

a. the obligations of Swiss law pleaded at paragraph 85 above;

b. CSAM's contractual obligation to act strictly in accordance with the legal and regulatory requirements applicable to CSFM as pleaded at paragraph 80 above, and accordingly, the legal and regulatory obligations pleaded at paragraphs 69 and 71 above; and/or

c. CSAM's contractual obligations under the Portfolio Management Agreement pleaded at paragraphs 81 to 83 above.

138. CSAM:

a. failed to ensure and verify on a periodic basis (or in the alternative, failed to adequately take steps to ensure and verify on a periodic basis) that the general investment policy, the investment strategies and risk diversification limits of the Virtuoso Sub-fund were properly and effectively implemented and complied with;

b. failed to verify (or in the alternative, failed to adequately verify) the existence and nature of the receivables underlying the notes bought;

c. failed to verify (or in the alternative, failed to adequately verify) that the types of notes in which it invested on behalf of the Virtuoso Sub-Fund effectively corresponded to the types defined in the investment policy and instruments of the fund as described in the successive versions of their offering documents;

d. by reason of the matters pleaded in the sub-paragraphs above, did not at all times act with due skill, care and diligence and did not have and effectively employ the resources and procedures that are necessary for the proper performance of its business activities; and

e. did not have in place adequate internal control mechanisms ensuring that the assets of the fund were invested in accordance with the management regulations or instruments of incorporation, having regard to the nature of the fund managed by CSAM.

J4 Failures to implement adequate risk management systems

139. CSAM ought to have implemented adequate risk management systems directed to the risks to which the Virtuoso Sub-Fund was exposed, by reason of:

a. the obligations of Swiss law pleaded at paragraph 85 above;

b. CSAM's contractual obligation to act strictly in accordance with the legal and regulatory requirements applicable to CSFM as pleaded at paragraph 80 above, and accordingly, the legal and regulatory obligations pleaded at paragraph 72 above; and/or

c. CSAM's contractual obligations under the Portfolio Management Agreement pleaded at paragraphs 82 to 83 above.

140. CSAM:

a. failed to implement adequate risk management systems to address all relevant risk to which the Virtuoso Sub-Fund was exposed;

b. failed to implement adequate risk management systems with necessary and adequate techniques, tools and arrangements for assessing the exposure of the Virtuoso Sub-Fund to all relevant risks to which the fund was or might have been exposed;

c. failed to implement risk management systems which addressed in an adequate manner the credit risk relating to notes;

d. failed to implement risk management systems which addressed in an adequate manner risks relating to the insurance coverage of the notes;

e. failed to implement risk management systems which addressed in an adequate manner the concentration risks in relation to the insurance coverage in place for some of the notes;

f. failed to implement a risk management policy or arrangements, processes and techniques for assessing the exposure of the Virtuoso Sub-Fund to all relevant risks, having regard to the nature, scale and complexity of the Virtuoso Sub-Fund;

g. failed to assess, monitor and periodically (at least annually) review (or in the alternative, failed to adequately assess, monitor and periodically review) the adequacy and effectiveness of its risk management policy and related arrangements, processes and techniques;

h. failed to conduct a review (or in the alternative, failed to conduct an adequate review), following significant material changes to the investment strategy and objectives of the sub-fund and/or external events which indicated than an additional review was required; and

i. did not provide to CSFM a comprehensive overview of the risks of the Virtuoso Sub-Fund, where the failure of CSAM to establish, implement and maintain an adequate risk management policy identifying all relevant risks meant that the risk management reporting did not provide for a coverage of all relevant risks, including specific risks linked to the set-up of the fund; and

j. failed to implement adequate investment process oversight in circumstances where it had no active management of capacity limits and was dependent on Greensill's investment and finance strategy.

140A. Further or in the alternative, CSAM failed to conduct adequate due diligence and investigations prior to making an investment in notes backed by trade receivables, in order to assess whether, for the purposes of the criteria set out in the warehouse facility agreements set out in paragraphs 45 to 48A above, the underlying Customer or obligor faced fundamental credit metrics deterioration and substantial increase of default risk, such that CSAM was entitled to (and ought to have) refused to acquire those notes.

Particulars

As was identified in the Deloitte Report at [6.20.3], CSAM did not conduct sufficient credit analysis in order to provide it with sufficient information to be able to execute these rejection rights.

140B. Further or in the alternative, CSAM failed to conduct detailed and thorough due diligence and investigations prior to making an investment in notes backed by trade receivables, which processes should have addressed:

a. a risk assessment of those trade receivables, involving an assessment of the credit risk of the obligor and proper documentation;

b. verification of information provided by the Customer and Greensill;

c. analysis of the financial health and integrity of the Customer and Greensill;

d. review of the operational process of the Customer and Greensill;

e. review and verification of the terms of any insurance arranged by Greensill;

f. review of the legal documentation of the transactions;

g. some level of asset-specific verification, covering the existence and basic terms of the pool of trade receivables, by examination of documentation;

h. seeking confirmation of insurance coverage from the ultimate provider of the insurance;

i. examining the financial strength, integrity, capabilities and operations of the Customer and Greensill, and examining the relationship and dealings between those parties, relying not only on information provided by such counterparties, but also information obtained independently through market and other public sources;

Particulars

The examination would include matters such as Greensill's origination and servicing functions, its relationship and dealings with the Customers, Greensill's controls over cash movements, Greensill's financial capacity given its provision of an indemnity, and further investigations into any "red flags" identified with respect to customers.

j. analysis of any guarantees provided by the Customers or entities related to them; and/or

k. analysis of any indemnity provided by GCUK, and the reasons why GCUK in the position of finance intermediary would be prepared to offer such an indemnity.

J5 Failures with respect to preferential treatment and management of conflicts of interest

141. CSAM ought to have identified and appropriately addressed any conflicts of interest arising with respect to the Virtuoso Sub-Fund, including compliance with the offering documents of the sub-fund, by reason of:

a. the obligations of Swiss law pleaded at paragraph 85(g) and (l) above;

b. CSAM's contractual obligation to act strictly in accordance with the legal and regulatory requirements applicable to CSFM as pleaded at paragraph 80 above, and accordingly, the legal and regulatory obligations pleaded at paragraph 74 above; and/or

c. CSAM's contractual obligations under the Portfolio Management Agreement pleaded at paragraphs 82 to 83 above.

142. CSAM:

a. failed to identify in due time a conflict of interest which existed at the level of Greensill acting as sole originator of the Virtuoso Sub-Fund, in particular, that multiple investments made by CSAM on behalf of the fund, upon proposals of Greensill, were made in a context where there was a conflict (or potential conflict) between the interests of Greensill on the one hand and the interests of the sub-fund and their investors on the other hand, exposing the investments to the risk that Greensill would not be objective in the sourcing of notes, and thus exposing investors to a material risk of damage;

b. failed to record the conflict described in sub-paragraph (a) in its conflicts of interest registers;

c. by reason of its failure to identify (in due time) the conflict of interest pleaded in sub-paragraph (a), failed to manage and monitor the conflict in an adequate manner; and

d. by reason of its failure to identify (in due time) the conflict of interest pleaded in sub-paragraph (a), failed to inform investors about conflicts of interest for which management and monitoring efforts were revealed to be ineffective.

Particulars

Eg see the descriptions in the Deloitte Report at [3.2.3], [3.14.1]-[3.14.2], [6.38.2], [6.39.1], [6.39.3], [6.44.1] (and paragraph [16A] above), [6.62.2]-6.62.3], [6.66.4], [6.100.1]-[6.100.5].

K BREACHES OF FOREIGN LAW

K1 Breaches of Luxembourg law

143. CSFM did not comply with the requirements of Luxembourg law pleaded in paragraphs 69 to 75A above, by reason of one, some, or all of:

a. the matters pleaded in paragraphs 116 to 132B above, to the extent the allegations in those sub-paragraphs relate to a failure to comply with Luxembourg law;

Particulars

See the CSSF Sanction.

b. the matters pleaded at paragraphs 86 to 92E above concerning failures in due diligence at about or shortly after the launch of the Virtuoso Sub-Fund (with respect to the requirements pleaded at paragraphs 69, 71 and 72);

c. the matters pleaded at paragraphs 93 to 100 above concerning issues associated with insurance matters (with respect to the requirements pleaded at paragraphs 69, 70, 71 and 72);

d. the matters pleaded at paragraphs 100B to 104 above concerning issues with NMC (with respect to the requirements pleaded at paragraphs 69, 71, 72, 73 and 75);

e. the matters pleaded at paragraphs 104A to 104ZC above concerning issues with the CS Loan and the Proposed Capital Raise (with respect to the requirements pleaded at paragraphs 69, 70, 71, 72 and 74);

f. the matters pleaded at paragraphs 104ZD to 104ZL above concerning issues with CSFM being reliant on the Greensill Group to give effect to the investment process in the Virtuoso Sub-Fund (with respect to the requirements pleaded at paragraphs 69, 71 and 72);

g. the matters pleaded at paragraphs 104ZM to 104ZN concerning CSFM's failures to adequately consider the pricing of notes under the relevant warehouse facility agreements (with respect to the requirements pleaded at paragraph 75A);

h. the matters pleaded at paragraphs 104ZO to 104ZT concerning CFSM's breaches of safekeeping duties; and, or alternatively

i. the matters pleaded at paragraphs 104ZU to 104ZW concerning CSFM's failure to respond to trigger events and conduct product approval processes following changes in investment objectives (with respect to the requirements pleaded at paragraphs 69, 70, 71 and 72).

K2 Breaches of Swiss supervisory law

144. CSAM did not comply with the requirements of Swiss law pleaded in paragraph 85 above, by reason of one, some, or all of:

a. the matters pleaded in paragraphs 133 to 142, to the extent the allegations in those sub-paragraphs relate to a failure to comply with Swiss law;

Particulars

See the FINMA Findings, which reported on the conclusion of legal proceedings in connection with its business relationship with Mr Greensill and his companies, and which found serious breaches of supervisory obligations with regard to conduct rules (including the duties of loyalty, diligence and disclosure), risk management and appropriate organisational structures, including failures to adequately identify, limit and monitor risks in the context of the business relationship with Greensill over a period of years; failures to ensure that there was regular, consistent engagement with the risks associated with the Greensill Group; serious deficiencies in organisational structures during the period of the relationship with Greensill; and failures by CSAM to sufficiently fulfil supervisory duties as a manager of collective assets. See FINMA Findings under the heading "Deficiencies in risk management and organisational structures".

Marsh notes that as at the time of filing this Cross-Claim, UBS is yet to discover certain materials relating to the subject matter of this Cross-Claim. Marsh reserves the right to provide further particulars, or amend its pleading, in response to that material.

Consequently, FINMA imposed severe measures and requirements on CSAM. See FINMA findings under the heading "Measures".

Further particulars may be provided following evidence and disclosure.

b. the matters pleaded at paragraphs 86 to 92E above concerning failures in due diligence at about or shortly after the launch of the Virtuoso Sub-Fund (with respect to the requirements pleaded at paragraph 85 other than (g) and (l));

c. the matters pleaded at paragraphs 93 to 100 above concerning issues associated with insurance matters (with respect to the requirements pleaded at paragraph 85 other than (ca), (g), and (l));

d. the matters pleaded at paragraphs 100B to 104 above concerning issues with NMC (with respect to the requirements pleaded at paragraph 85 other than (ca), (g) and (l));

e. the matters pleaded at paragraphs 104A to 104ZC above concerning issues with the CS Loan and the Proposed Capital Raise (with respect to the requirements pleaded at paragraph 85);

f. the matters pleaded at paragraphs 104ZD to 104ZL above concerning issues with CSAM being reliant on the Greensill Group to give effect to the investment process in the Virtuoso Sub-Fund (with respect to the requirements pleaded at paragraph 85 other than (ca), (g) and (l); and, or alternatively

g. the matters pleaded at paragraphs 104ZV to 104ZW concerning CSAM's failure to respond to trigger events and conduct product approval processes following changes in investment objectives (with respect to the requirements pleaded at paragraph 85 other than (g) and (l).

L BREACHES BY CSFM AND CSAM

L1 Breaches by CSFM with respect to the Virtuoso Sub-Fund

145. CSFM breached the terms of the Virtuoso Management Agreement and/or the 2020 Virtuoso Management Agreement pleaded at paragraph 57 above, because by reason of the matters pleaded at paragraph 143 above, it did not perform its obligations in accordance with the provisions of Luxembourg law.

146. Further or in the alternative, CSFM breached the terms of the Virtuoso Management Agreement and/or the 2020 Virtuoso Management Agreement pleaded at paragraph 58 above, because by reason of the matters pleaded at paragraphs 118 to 121 above:

a. it did not comply with restrictions on investments set out in the Offering Memoranda; and, or alternatively

b. it did not comply with the Internal Investment Guidelines for the Virtuoso Sub-Fund.

147. Further or in the alternative, CSFM breached the terms of the Virtuoso Management Agreement and/or the 2020 Virtuoso Management Agreement pleaded at paragraph 59 above, by reason of one, some or all of:

a. the matters pleaded at paragraphs 86 to 92E above concerning failures in due diligence and product development at about or shortly after the launch of the Virtuoso Sub-Fund;

b. the matters pleaded at paragraphs 93 to 100 above concerning issues associated with insurance matters;

c. the matters pleaded at paragraphs 100B to 104 above concerning issues with respect to NMC;

ca. the matters pleaded at paragraphs 104A to -104ZC above concerning issues with the CS Loan and the Proposed Capital Raise;

cb. the matters pleaded at paragraphs 104ZD to 104ZL above concerning issues with CSFM being reliant on the Greensill Group to give effect to the investment process in the Virtuoso Sub-Fund;

cba. the matters pleaded at paragraphs 104ZM to 104ZN above concerning a failure to adequately consider the pricing of the notes;

cbc. the matters pleaded at paragraphs 104ZO to 104ZT above concerning CSFM's safekeeping duties;

cc. the matters pleaded at paragraphs 104ZV to 104ZW concerning CSFM's failure to respond to trigger events and conduct product approval processes following changes in investment objectives;

d. the matters pleaded at paragraphs 105 to ~~0B~~ 115B concerning Credit Suisse's internal investigation into Greensill; and, or alternatively

e. the matters pleaded at paragraphs 116 to 132B above concerning general failures by CSFM.

148. Further or in the alternative, CSFM breached the terms of the Virtuoso Management Agreement and/or the 2020 Virtuoso Management Agreement pleaded at paragraph 60 by reason of one, some or all of:

a. the matters pleaded at paragraphs 86 to 92E above concerning failures in due diligence and product development at about or shortly after the launch of the Virtuoso Sub-Fund;

b. the matters pleaded at paragraphs 93 to 100 above concerning issues associated with insurance matters;

c. the matters pleaded at paragraphs 100B to 104 above concerning issues with respect to NMC;

ca. the matters pleaded at paragraphs 104A to -104ZC above concerning issues with the CS Loan and the Proposed Capital Raise;

cc. the matters pleaded at paragraphs 104ZD to 104ZL above concerning issues with CSFM being reliant on the Greensill Group to give effect to the investment process in the Virtuoso Sub-Fund;

cca. the matters pleaded at paragraphs 104ZM to 104ZN above concerning a failure to adequately consider the pricing of the notes;

ccb. the matters pleaded at paragraphs 104ZO to 104ZT above concerning CSFM's safekeeping duties;

cd. the matters pleaded at paragraphs 104ZV to 104ZW concerning CSFM's failure to respond to trigger events and conduct product approval processes following changes in investment objectives;

d. the matters pleaded at paragraphs 105 to 115B~~0~~ concerning Credit Suisse's internal investigation into Greensill; and, or alternatively

e. the matters pleaded at paragraphs 116 to 132 above concerning general failures by CSFM.

148AA. Further or in the alternative, CSFM breached the terms of the Virtuoso Management Agreement pleaded at paragraph 60A by reason of the matters pleaded at paragraphs 104ZM to 104ZN concerning CSFM's failures to adequately consider the pricing of notes under the relevant warehouse facility agreements.

148A. Further or in the alternative, CSFM breached the terms of the Virtuoso Management Agreement and/or the 2020 Virtuoso Management Agreement pleaded at paragraph 61 above, by reason of one, some or all of:

a. the matters pleaded at paragraphs 86 to 92E above concerning failures in due diligence and product development at about or shortly after the launch of the Virtuoso Sub-Fund;

b. the matters pleaded at paragraphs 93 to 100 above concerning issues associated with insurance matters;

c. the matters pleaded at paragraphs 100B to 104 above concerning issues with respect to NMC;

d. the matters pleaded at paragraphs 104A to- 104ZC above concerning issues with the CS Loan and the Proposed Capital Raise;

da. the matters pleaded at paragraphs 104ZD to 104ZL above concerning issues with CSFM being reliant on the Greensill Group to give effect to the investment process in the Virtuoso Sub-Fund;

daa. the matters pleaded at paragraphs 104ZM to 104ZN above concerning a failure to adequately consider the pricing of the notes;

dab. the matters pleaded at paragraphs 104ZO to 104ZT above concerning CSFM's safekeeping duties;

db. the matters pleaded at paragraphs 104ZV to 104ZW concerning CSFM's failure to respond to trigger events and conduct product approval processes following changes in investment objectives;

e. the matters pleaded at paragraphs 105 to 115B~~0~~B concerning Credit Suisse's internal investigation into Greensill; and, or alternatively

f. the matters pleaded at paragraphs 116 to 132B above concerning general failures by CSFM.

148B. Further or in the alternative, CSFM breached the terms of the Virtuoso Management Agreement and/or the 2020 Virtuoso Management Agreement pleaded at paragraph 62 above, by reason of one, some or all of the matters pleaded at paragraphs 118 to 121 and 143 above.

148C. Further or in the alternative, CSFM breached the terms of the Virtuoso Management Agreement and/or the 2020 Virtuoso Management Agreement pleaded at paragraph 63 above, by reason of one, some or all of the matters pleaded at paragraphs 126 and 127 above.

148D. Further or in the alternative, CSFM breached the terms of the 2020 Virtuoso Management Agreement pleaded at paragraph 66 above, by reason of one, some or all of:

a. the matters pleaded at paragraphs 86 to 92E above concerning failures in due diligence and product development at about or shortly after the launch of the Virtuoso Sub-Fund;

b. the matters pleaded at paragraphs 93 to 100 above concerning issues associated with insurance matters;

c. the matters pleaded at paragraphs 100B to 104 above concerning issues with respect to NMC;

d. the matters pleaded at paragraphs 104A to 104~~A~~ZC above concerning issues with the CS Loan and the Proposed Capital Raise;

da. the matters pleaded at paragraphs 104ZD to 104ZL above concerning issues with CSFM being reliant on the Greensill Group to give effect to the investment process in the Virtuoso Sub-Fund;

daa. the matters pleaded at paragraphs 104ZM to 104ZN above concerning a failure to adequately consider the pricing of the notes;

dab. the matters pleaded at paragraphs 104ZO to 104ZT above concerning CSFM's safekeeping duties;

db. the matters pleaded at paragraphs 104ZV to 104ZW concerning CSFM's failure to respond to trigger events and conduct product approval processes following changes in investment objectives;

e. the matters pleaded at paragraphs 105 to 115B~~0~~B concerning Credit Suisse's internal investigation into Greensill; and, or alternatively

f. the matters pleaded at paragraphs 116 to 132B above concerning general failures by CSFM.

148E. Further or in the alternative, CSFM is liable with respect to the Virtuoso Sub-Fund pursuant to the obligations pleaded at paragraph 68A above, by reason of:

a. the matters pleaded at paragraphs 86 to 92E above concerning failures in due diligence and product development at about or shortly after the launch of the Virtuoso Sub-Fund;

b. the matters pleaded at paragraphs 93 to 100 above concerning issues associated with insurance matters;

c. the matters pleaded at paragraphs 100B to 104 above concerning issues with respect to NMC;

d. the matters pleaded at paragraphs 104A to 104ZC above concerning issues with the CS Loan and the Proposed Capital Raise;

da. the matters pleaded at paragraphs 104ZD to 104ZL above concerning issues with CSFM being reliant on the Greensill Group to give effect to the investment process in the Virtuoso Sub-Fund;

daa. the matters pleaded at paragraphs 104ZM to 104ZN above concerning a failure to adequately consider the pricing of the notes;

dab. the matters pleaded at paragraphs 104ZO to 104ZT above concerning CSFM's safekeeping duties;

db. the matters pleaded at paragraphs 104ZV to 104ZW concerning CSFM's failure to respond to trigger events and conduct product approval processes following changes in investment objectives;

e. the matters pleaded at paragraphs 105 to 115B~~0~~B concerning Credit Suisse's internal investigation into Greensill; and, or alternatively

f. the matters pleaded at paragraphs 116 to 132B above concerning general failures by CSFM.

L2 Breaches by CSAM with respect to the Virtuoso Sub-Fund

149. CSAM breached the term of the Portfolio Management Agreement pleaded at paragraph 80 above, because:

a. by reason of the matters pleaded at paragraph 145 above, it did not perform its obligations in accordance with the provisions of Swiss law;

b. it did not act strictly in accordance with the legal and regulatory requirements applicable to CSFM by reason of one, some or all of:

i the matters pleaded at paragraphs 86 to 92E above concerning failures in due diligence and product development at about or shortly after the launch of the Virtuoso Sub-Fund;

ii the matters pleaded at paragraphs 93 to 100 above concerning issues associated with insurance matters;

iii the matters pleaded at paragraphs 100B to 104 above concerning issues with respect to NMC;

(iiia) the matters pleaded at paragraphs 104A to 104ZC above concerning issues with the CS Loan and the Proposed Capital Raise;

(iiib) the matters pleaded at paragraphs 104ZD to 104ZL above concerning issues with CSAM being reliant on the Greensill Group to give effect to the investment process in the Virtuoso Sub-Fund;

(iiiba) the matters pleaded at paragraphs 104ZM to 104ZN above concerning a failure to adequately consider the pricing of the notes;

(iiic) the matters pleaded at paragraphs 104ZV to 104ZW concerning CSAM's failure to respond to trigger events and conduct product approval processes following changes in investment objectives;

iv the matters pleaded at paragraphs 105 to 115B~~0~~B concerning Credit Suisse's internal investigation into Greensill; and, or alternatively

v the matters pleaded at paragraphs 133 to 142 above concerning general failures by CSAM.

150. Further or in the alternative, CSAM breached the term of the Portfolio Management Agreement pleaded at paragraph 81 above, because by reason of the matters pleaded at paragraphs 135 to 138 above:

a. it did not comply with restrictions on investments set out in the Offering Memoranda; and, or alternatively

b. it did not comply with the Internal Investment Guidelines for the Virtuoso Sub-Fund.

151. Further or in the alternative, CSAM breached the terms of the Portfolio Management Agreement pleaded at paragraph 82 above by reason of one, some or all of:

a. the matters pleaded at paragraphs 86 to 92E above concerning failures in due diligence and product development at about or shortly after the launch of the Virtuoso Sub-Fund;

b. the matters pleaded at paragraphs 93 to 100 above concerning issues associated with insurance matters;

c. the matters pleaded at paragraphs 100B to 104 above concerning issues with respect to NMC;

ca. the matters pleaded at paragraphs 104A to 104ZC above concerning issues with the CS Loan and the Proposed Capital Raise;

cb. the matters pleaded at paragraphs 104ZD to 104ZL above concerning issues with CSFM being reliant on the Greensill Group to give effect to the investment process in the Virtuoso Sub-Fund;

cba. the matters pleaded at paragraphs 104ZM to 104ZN above concerning a failure to adequately consider the pricing of the notes;

cc. the matters pleaded at paragraphs 104ZV to 104ZW concerning CSFM's failure to respond to trigger events and conduct product approval processes following changes in investment objectives;

d. the matters pleaded at paragraphs 105 to 115B~~0~~B concerning Credit Suisse's internal investigation into Greensill; and, or alternatively

e. the matters pleaded at paragraphs 133 to 142 above concerning general failures by CSAM.

152. Further or in the alternative, CSAM breached the terms of the Portfolio Management Agreement pleaded at paragraph 83 above by reason of one, some or all of:

a. the matters pleaded at paragraphs 86 to 92E above concerning failures in due diligence and product development at about or shortly after the launch of the Virtuoso Sub-Fund;

b. the matters pleaded at paragraphs 93 to 100 above concerning issues associated with insurance matters;

c. the matters pleaded at paragraphs 100B to 104 above concerning issues with respect to NMC;

ca. the matters pleaded at paragraphs 104A to 104ZC above concerning issues with the CS Loan and the Proposed Capital Raise;

cb. the matters pleaded at paragraphs 104ZD to 104ZL above concerning issues with CSAM being reliant on the Greensill Group to give effect to the investment process in the Virtuoso Sub-Fund;

cba. the matters pleaded at paragraphs 104ZM to 104ZN above concerning a failure to adequately consider the pricing of the notes;

cc. the matters pleaded at paragraphs 104ZM to 104ZN concerning CSAM's failures to adequately consider the pricing of notes under the relevant warehouse facility agreements;

cd. the matters pleaded at paragraphs 104ZV to 104ZW concerning CSAM's failure to respond to trigger events and conduct product approval processes following changes in investment objectives;

d. the matters pleaded at paragraphs 105 to 115B~~0~~B concerning Credit Suisse's internal investigation into Greensill; and, or alternatively

e. the matters pleaded at paragraphs 133 to 142 above concerning general failures by CSAM.

152A. Further or in the alternative, CSAM is liable with respect to the Virtuoso Sub-Fund pursuant to the obligations pleaded at paragraph 84A above, by reason of:

a. the matters pleaded at paragraphs 86 to 92E above concerning failures in due diligence and product development at about or shortly after the launch of the Virtuoso Sub-Fund;

b. the matters pleaded at paragraphs 93 to 100 above concerning issues associated with insurance matters;

c. the matters pleaded at paragraphs 100B to 104 above concerning issues with respect to NMC;

d. the matters pleaded at paragraphs 104A to 104ZC above concerning issues with the CS Loan and the Proposed Capital Raise;

da. the matters pleaded at paragraphs 104ZD to 104ZL above concerning issues with CSAM being reliant on the Greensill Group to give effect to the investment process in the Virtuoso Sub-Fund;

dab. the matters pleaded at paragraphs 104ZM to 104ZN above concerning a failure to adequately consider the pricing of the notes;

db. the matters pleaded at paragraphs 104ZV to 104ZW concerning CSAM's failure to respond to trigger events and conduct product approval processes following changes in investment objectives;

e. the matters pleaded at paragraphs 105 to 115B~~0~~B concerning Credit Suisse's internal investigation into Greensill; and, or alternatively

f. the matters pleaded at paragraphs 133 to 142 above concerning general failures by CSAM.

152B. Further or in the alternative, CSAM is liable with respect to the Virtuoso Sub-Fund pursuant to the obligations pleaded at paragraph 84B above, by reason of:

a. the matters pleaded at paragraphs 86 to 92E above concerning failures in due diligence and product development at about or shortly after the launch of the Virtuoso Sub-Fund;

b. the matters pleaded at paragraphs 93 to 100 above concerning issues associated with insurance matters;

c. the matters pleaded at paragraphs 100B to 104 above concerning issues with respect to NMC;

d. the matters pleaded at paragraphs 104A to 104ZC above concerning issues with the CS Loan and the Proposed Capital Raise;

da. the matters pleaded at paragraphs 104ZD to 104ZL above concerning issues with CSAM being reliant on the Greensill Group to give effect to the investment process in the Virtuoso Sub-Fund;

dab. the matters pleaded at paragraphs 104ZM to 104ZN above concerning a failure to adequately consider the pricing of the notes;

db. the matters pleaded at paragraphs 104ZV to 104ZW concerning CSAM's failure to respond to trigger events and conduct product approval processes following changes in investment objectives;

e. the matters pleaded at paragraphs 105 to 115B~~0~~B concerning Credit Suisse's internal investigation into Greensill; and, or alternatively

f. the matters pleaded at paragraphs 133 to 142 above concerning general failures by CSAM.

152C. Further or in the alternative, CSAM is liable with respect to the Virtuoso Sub-Fund pursuant to its obligations pleaded at paragraph 85A above, by reason of the Swiss law breaches pleaded at paragraph 144, to the extent they allege breaches of the CISA, the FinIA and/or the FinSA.

L3 BREACHES BY CSFS

152CA. CSFS breached the requirements pleaded in paragraph 129B above, by reason of its conduct pleaded in paragraphs 131 to 132A above.

152CB. Further or in the alternative, CSFS is liable pursuant to its obligations pleaded at paragraph 129C above, by reason of its conduct pleaded in paragraphs 131 to 132A above.

LA RELIANCE ON IAL / BCC PLEADING OF CSFM, CSAM AND CSFS FAILURES

152D. Further or in the alternative, Marsh, without admission and for the purposes of this Cross-Claim only:

a. repeats and relies upon paragraphs 104C(k) to (kl) of Insurance Australia Limited's Defence in these proceedings (**IAL Defence**) and/or repeats and relies upon paragraphs 5 to 184 of Annexure C to IAL's Defence in these proceedings to the extent the allegations in those paragraphs have not been repeated above; and

b. says that CSFM, CSAM/or CSFS are liable to the Applicant for the loss claimed in these proceedings for the reasons set out in those paragraphs of the IAL Defence.

152E. Further or in the alternative, Marsh, without admission and for the purposes of this Cross-Claim only:

a. repeats and relies upon paragraph 104HA of BCC Trade Credit Pty Ltd's Amended Defence to the ~~Eighth~~ Tenth Amended Statement of Claim filed on ~~19 September 2025~~2 July 2026 in these proceedings (**BCC Defence**);

aa. further or in the alternative, repeats and relies upon paragraphs 6 to 24 of the "BCC/TMMA/TMNF Cross Claim" filed by BCC, TMMA and TMNF against UBS Asset Management (Europe) S.A. and others on 1 October 2025; and, or alternatively

b. says that CSFM, CSAM and, or alternatively, CSFS are liable to the Applicant for the loss claimed in these proceedings for the reasons set out in those paragraphs of the BCC Defence and Cross-Claim.

LB THE SUB-FUNDS SHOULD NEVER HAVE BEEN LAUNCHED OR SHOULD HAVE BEEN WOUND DOWN

152F. Further or in the alternative:

a. the Virtuoso Sub-Fund should never have been launched, having regard to the inadequacies in the product development processes and/or the due diligence performed; or

Particulars

See paragraphs 8686 to 92E above.

b. once the Virtuoso Sub-Fund was launched, it should have been wound down (or alternatively, subject to a review and then wound down, or alternatively subject to a review and then significantly restructured) by no later than:

i about the first half of 2019, following receipt of the Diligence Report in about November 2018; the realisation following conferral with the General Counsel of the Credit Suisse Group that unless the exposure to entities associated with Mr Gupta was at least "massively reduced" by letting notes mature, CSAM may have to close the funds; and the subsequent failure to reduce exposure to entities associated with Mr Gupta in any material way;

Particulars

See paragraphs 155 (receipt of Diligence Report), 155C and 156 (realisation of the need to massively reduce the exposure), and 158A and following (failure to subsequently reduce the exposure) of Marsh's Fourth Further Amended Statement of Claim against Credit Suisse filed in the Global Proceedings NSD169/2023 (**Global Cross-Claim**).

ii about the final quarter of 2019, given a series of "trigger events" which should have prompted an end-to-end review of the sub-funds (in the form of, at least, regulatory enquiries; increased press reporting regarding GAM and Greensill; third party research reports in the form of the ICC Report, the Diligence Report and the Muddy Waters Report; and the collapse of the GAM funds);

Particulars

This is explained in the expert evidence of Mr Adam Fairhead – e.g. see paragraphs 425 to 438 of his report dated 26 February 2026

iii about February 2020, when the Risk Committee of the Credit Suisse Group's Board requested a playbook on how to run down Credit Suisse's exposure to SoftBank (in circumstances where SoftBank was a relevantly related entity of Greensill, including where the Vision Fund had invested USD 1.455 billion in Greensill), and CSAM had also decided that it should no longer accept any further GFG exposure with immediate effect;

Particulars

For the position regarding SoftBank exposure, see paragraphs 164A to 166AF of the Global Cross-Claim. For the position regarding SoftBank being a relevantly related entity of Greensill, and the investments by the Vision Fund in Greensill, see Deloitte Report at [6.131.2], and paragraphs 166 and 167 of the Global Cross-Claim.

iv about March or April 2020, when the sub-funds did not have sufficient liquidity and were close to closure, and where in order to avoid that outcome, a US $1.5 billion loan needed to be obtained from SoftBank (where a condition of that loan was a "side letter" and where the loan also gave rise to "circular financing");

Particulars

See paragraphs 166AG to 176 of the Global Cross-Claim.

v about the second quarter of 2020, when, following a number of media reports concerning the sub-funds, including their relationship with entities associated with Mr Gupta, the Credit Suisse Group CFO told the Credit Suisse Group CEO that Credit Suisse should review its relationship with Greensill;

Particulars

See paragraph 162MD of the Global Cross-Claim.

vi about June 2020, when, inter alia, the sub-funds had repeatedly been unable to materially reduce their exposure to entities associated with Mr Gupta since at least about January 2019; the Cahill Report into the

SoftBank side letter and SoftBank circular financing had been received and the Credit Suisse Group Board had raised serious concerns about ongoing dealings with SoftBank; and the sub-funds identified that they were exposed to up to almost US $2 billion in future receivables, and had also identified various concerns as to that exposure;

vii about late August 2020, when Mr Degen and Mr Varvel raised internally that Credit Suisse should exit (or alternatively, should consider exiting) the relationship with Greensill, including by selling the Virtuoso Sub-Fund and Nova Sub-Fund or winding them down;

Particulars

See paragraph 185AD of the Global Cross-Claim.

viii about September or October 2020, having regard to the concerns with Greensill raised by the Credit Suisse risk team in the context of the Proposed CS Loan;

Particulars

See paragraphs 104K to 104LAA above.

ix about early January 2021, when GCUK was in breach of "Hard Limits" and informed Credit Suisse to the effect that it did not have sufficient liquidity to buy back notes from CSAM in order to reduce the exposure of the sub-funds to SoftBank backed companies or entities associated with Mr Gupta, and also that it could not identify anything in the future that was going to give it sufficient liquidity.

Particulars

See paragraphs 205VA to 205W of the Global Cross-Claim.

c. once the Virtuoso Sub-Fund was launched, Credit Suisse ought to have refused to acquire the NMC Notes pursuant to its powers under the September 2019 Warehousing Letter on the basis that NMC was facing:

i a fundamental credit metrics deterioration and a substantial increase of default risk according to the assessment of CSAM; and/or

ii heightened public appearance with negative press therefore leading to increased compliance and reputational risk for the Virtuoso Sub-Fund going forward.

Particulars

See paragraph 48, and 100B to 102E above.

152G. In the premises pleaded in the preceding paragraph, by continuing to operate the Virtuoso Sub-Fund and purchase the NMC Notes rather than winding down the sub-funds (or alternatively, significantly restructuring the sub-funds), CSAM and/or CSFM were recklessly indifferent to the recoverability of some or all of the NMC Notes, and were the authors of the Applicants' loss (or alternatively, were a substantial cause of the Applicants' loss).

M CONTRIBUTION CLAIMS

153. By the ~~Eighth~~ Tenth Amended Statement of Claim in these proceedings, the Virtuoso Parent bring claims against Marsh:

a. in negligence and negligent misstatement alleged to be governed by the law of England and Wales; and

b. alleging a contravention of s 1041E of the *Corporations Act 2001* (Cth).

154. Marsh denies that it is liable to the Virtuoso Parent with respect to the claims pleaded at paragraph 153 above and denies that it is liable for the loss and damage claimed, and relies upon its Defence to the ~~Eighth~~ Tenth Amended Statement of Claim filed.

155. If the Virtuoso Parent suffered loss and damage as alleged or at all in the ~~Eighth~~ Tenth Amended Statement of Claim with respect to the claims pleaded at paragraph 153 above (which is denied), such loss and damage was caused or contributed to by CSAM and, or alternatively, by CFSM, and, or alternatively, by CSFS by reason of the breaches pleaded above (which give rise to liability of one, some or all of the Cross-Respondents to pay loss or damage to the Virtuoso Parent), and to the extent no Australian statutory proportionate liability regime applies to those claims, Marsh is entitled to recover from the First Cross-Respondent and/or the Second Cross Respondent, and/or alternatively, the Third Cross Respondent:

a. contribution pursuant to s 5(1)(c) of the *Law Reform (Miscellaneous Provisions) Act 1946* (NSW);

aa. contribution pursuant to s 12 of the *Law Reform (Miscellaneous Provisions) Act 1965* (NSW);

b. contribution pursuant to the Civil Liability (Contribution) Act 1978 (UK);

ba. contribution pursuant to the laws of Luxembourg, which provide a right for a liable party to seek contribution or recourse from other persons responsible for the relevant loss or damage;

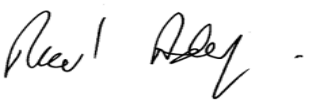
bb. contribution pursuant to Article 50 and/or Article 51 of the Swiss Code of Obligations and Article 146 of the Swiss Collective Investment Schemes Act, which provides a liable party with a right to seek contribution or recourse from other persons responsible for the relevant loss or damage; and/or

c. equitable contribution, because to the extent Marsh had the obligations which the Applicant has pleaded in the ~~Eighth~~ Tenth Amended Statement of Claim (which is denied):

i Marsh, and CSAM and/or CSFM, had a common obligation to exercise reasonable care in protecting the Virtuoso Sub-Fund from loss arising from their acquisition of the relevant notes; and/or

ii Marsh, and CSAM and/or CSFM, had a common obligation to use reasonable skill and care to ensure that the policies of trade credit insurance which were obtained in order to protect the assets of the Virtuoso Sub-Fund were appropriate having regard to the nature of the investments being acquired on behalf of the Virtuoso Sub-Fund.

Date: 9 September 2026



Signed by Paul Reidy

Solicitor for the Cross-claimant

This pleading was prepared by Tim Kane and Stephanie Crosbie of counsel and settled by Tony Bannon SC and Imtiaz Ahmed SC.

Certificate of lawyer

I Paul Reidy certify to the Court that, in relation to the statement of claim filed on behalf of the Applicant, the factual and legal material available to me at present provides a proper basis for each allegation in the pleading.

Date: 9 September 2026

Signed by Paul Reidy
Solicitor for the Cross-claimant