

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re

LEHMAN BROTHERS HOLDINGS INC., et al.,

Debtors.

Chapter 11  
Case No. 08-13555 (SCC)

LEHMAN BROTHERS HOLDINGS INC.,  
LEHMAN BROTHERS SPECIAL FINANCING  
INC., LEHMAN BROTHERS COMMODITY  
SERVICES INC. and LEHMAN BROTHERS  
COMMERCIAL CORP.,

Adv. Proc. No. 13-01676 (SCC)

Plaintiffs,

-against-

CREDIT SUISSE AG, CREDIT SUISSE  
INTERNATIONAL, CREDIT SUISSE ENERGY  
LLC, CREDIT SUISSE SECURITIES  
(EUROPE) LTD. and CREDIT SUISSE LOAN  
FUNDING LLC.

**ORDER GRANTING IN PART  
PLAINTIFFS' MOTION TO  
COMPEL THE CREDIT SUISSE  
DEFENDANTS TO PRODUCE  
DOCUMENTS BY A DATE  
CERTAIN**

Defendants.

X

Upon the timely motion dated July 28, 2017, (the “Motion”), pursuant to section 105(a) of the United States Bankruptcy Code (the “Bankruptcy Code”), Rules 9014 and 7037 of the Federal Rules of Bankruptcy Procedure (“Fed. R. Bankr. P.”) and Rule 37 of the Federal Rules of Civil Procedure (“Fed. R. Civ. P.”), Plaintiffs Lehman Brothers Special Financing Inc. (“LBSF”), Lehman Brothers Commodity Services Inc. (“LBCS”) and Lehman Brothers

Commercial Corp. (“LBCC,” and together with LBSF and LBCS, the “Lehman Subsidiaries”), and Lehman Brothers Holdings Inc. (“LBHI,” and together with the Lehman Subsidiaries, “Lehman”), on behalf of itself and as Plan Administrator under the Modified Third Amended Joint Chapter 11 Plan of Lehman Brothers Holdings Inc. and Its Affiliated Debtors (the “Plan”), to compel Defendants Credit Suisse AG (formerly known as Credit Suisse) (“CS Zurich”), Credit Suisse International (“CS International”), Credit Suisse Energy LLC (“CS Energy”), Credit Suisse Securities (Europe) Ltd. (“CS Europe”), and Credit Suisse Loan Funding LLC (“CS Loan Funding”) (collectively, “Credit Suisse”) to produce documents by a date certain.

**IT IS HEREBY ORDERED THAT:**

1. The Defendants are hereby directed to produce to Plaintiffs the following Documents or otherwise certify that after a reasonable and diligent search, production of such category is complete, by the date(s) noted herein:<sup>1</sup>

Credit Suisse’s Trading Activity and Position Management in 2008

- a) A complete record of all trade attributes, net present values (NPVs) and risk sensitivities for each position on Credit Suisse’s books at end of day for each day in September 2008, to be produced on or before October 31, 2017.
- b) All versions of all Excel spreadsheets and other electronic files used in 2008 by any of Credit Suisse's derivatives traders in the Relevant Product Groups (being Credit, Securitized Products, Rates, FX and Commodities (“Relevant Product Groups”)) throughout the course of a trading day to assess the risk in their portfolio or to calculate the impact of newly executed trades or of potential trades, to be produced on or before October 31, 2017.

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<sup>1</sup> Nothing in this Order shall be construed to compel Defendants to produce documents from Switzerland in violation of or in conflict with Swiss law.

- c) A complete record of all of Credit Suisse's derivatives trading activity in the period June 1, 2008 through December 31, 2008 inclusive against all counterparties, including all trading activity reports and blotters, to be produced in three tranches with the first to be made on or before October 31, the second to be made on or before November 30 and the final production to be made on or before December 31, 2017. These materials should include the levels at which new trades were executed, a description of the type of trading activity (e.g. new trades, assignments, novations, terminations, etc.), the time the trade was executed, and the net present value, the present value, unsettled cash and Day 1 P&L of the trade.

Credit Suisse's P&L Analysis in 2008

- d) The entirety of Credit Suisse's records of bid/offer quotes for Credit Suisse's derivatives trades with all counterparties for the period September 8-22, 2008, to be produced on or before September 29, 2017.
- e) Information sufficient to identify all books used in connection with Credit Suisse's close-out and their associated ATOM Codes within GPL, on or before September 29, 2017.
- f) All Profit & Loss ("P&L") attribution reports (defined as quantitative reports reflecting the profits or losses associated with the specific risk metrics, such as delta, gamma, vega and theta spreads, driving or not driving the P&L) recording or reporting the P&L attribution of Credit Suisse's derivatives trading business including the detail for each desk/ATOM code for the period September 8-22, 2008, to be produced on or before October 31, 2017.

Credit Suisse's Position Evaluation and Valuation Adjustment Activities in 2008

- g) All records and reports for the period August 1, 2008 to October 31, 2008 reflecting any part of the price testing or price verification process undertaken at Credit Suisse with respect to any derivatives positions including all reports at the ATOM code level, cluster level and division level and all price testing/price verification packages, to be produced on or before November 10, 2017.
- h) In respect of all records and reports recording or supporting reserves taken as Credit Valuation Adjustments or Credit Risk Adjustments (including records of the process of determining the reserves) with respect to Credit Suisse's derivatives portfolio between August 1, 2008 and October 31, 2008 inclusive, on or before September 29, 2017 Defendants will provide a certification that Defendants did not track Credit Valuation Adjustments or Credit Risk Adjustments with respect to collateralized counterparties, including Plaintiffs.
- i) All policies and procedures relating to Market Valuation Adjustments, or similar adjustments or reserves including Credit Valuation Adjustments, applicable to any part of Credit Suisse's derivatives trading business at any time during the period January 1, 2008 to June 30, 2009, or the next version of such policies in effect after January 1, 2007 if Credit Suisse contends the operative policies did not change before 2009, on or before September 29, 2017.
- j) All records and reports recording or supporting reserves taken under any Market Valuation Adjustment or similar policy (including records of the process of determining the reserves) with respect to Credit Suisse's derivatives positions for the period June 1, 2008 to December 31, 2008 including all documents recording support

for those reserves or analysis undertaken to calculate and determine the reserves, to be produced on or before November 10, 2017.

- k) All records of intra-month reserves taken by Credit Suisse with respect to any derivatives trade or group of derivatives trades during the period August 1, 2008 to October 31, 2008 regardless of whether those reserves were reversed prior to month-end, to be produced on or before November 10, 2017.
- l) All documents relating to standard option and other pricing models used in Credit Suisse's derivatives trading business at any time during the period August 1, 2008 through October 31, 2008 to evaluate the value of any derivatives trade, including records of mid-market values yielded by any such models and any deviations, to be produced on or before September 29, 2017.

Credit Suisse's Risk Management and Risk Reporting in 2008

- m) All market risk records and reports prepared by or for Credit Suisse's derivatives trading business at the business line, desk and book levels, including both front office-level risk reports and risk management-level risk reports for at least a weekly time period from July 1, 2008 through August 31, 2008, and for each day between September 1, 2008 and September 30, 2008, to be produced on or before October 31, 2017.
- n) All credit risk records and reports prepared by or for Credit Suisse's derivatives trading business, including all risk reports prepared to monitor counterparty credit risk, maximum potential exposure, potential future exposure and related metrics for at least a weekly time period from July 1, 2008 through August 31, 2008, and for each

day between September 1, 2008 and September 30, 2008, to be produced on or before October 31, 2017.<sup>2</sup>

- o) Any records (including meeting invitations, presentations, meeting minutes or notes) relating to any meeting of any Credit Suisse risk management committee held during September 2008 concerning Credit Suisse's derivatives exposure to Lehman and the management of that exposure, to be produced on or before September 29, 2017.

Additional Noncustodial Document Requests

- p) All formal policies and procedures as well as any other documents providing, recording or communicating guidance reflecting, relating to or concerning the allocation of remuneration and bonuses related to, tied to or driven by the close-out of Lehman-facing trades or having anything to do with actions taken or not taken in connection with the Lehman default, to be produced on or before September 29, 2017.
- q) All documents concerning the compensation of each of the Credit Suisse custodians whose documents are searched in these proceedings that reflect compensation related to, tied to or driven by the close-out of Lehman-facing trades or having anything to do with actions taken or not taken in connection with the Lehman default, that may be found in a reasonable and diligent search of those custodians' documents, to be produced on or before September 29, 2017.

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<sup>2</sup> With respect to sub-paragraph 1(n), where Defendants believe in good faith that foreign laws prohibit the disclosure of the names of third party counterparties, Defendants will use pseudonyms in their production for each counterparty which allow Plaintiffs to identify whether the counterparty is a dealer or customer. Defendants will retain a key to those pseudonyms to be produced forthwith on order of the Court.

- r) Documents sufficient to demonstrate the specific time on September 15, 2008 at which Credit Suisse delivered its Termination Notices to Lehman, to be produced on or before September 29, 2017.
- s) Any document retention policy applicable to any area of Credit Suisse's derivatives trading business during the period January 1, 2008 to June 30, 2009, to be produced on or before September 29, 2017.

2. In relation to custodial discovery, on or before October 31, 2017 Defendants are to provide a certification that they have not intentionally withheld from production any non-privileged custodial document that relates in any way to the Lehman default, the close-out of any Lehman-facing terminated trades or any step taken in response to or connected in any way with the Lehman default (including any trades or other transactions entered to hedge risk), whether or not the document refers to Lehman, the close-out or the Lehman default.

Dated: October 19, 2017  
New York, New York

/S/ Shelley C. Chapman  
THE HONORABLE SHELLEY C. CHAPMAN  
UNITED STATES BANKRUPTCY JUDGE