Media Briefing Note
Loreley Financing (Jersey) No. 30 Limited v Credit Suisse

The Claim

In July 2007, Loreley Financing (Jersey) No. 30 Limited (Loreley) purchased $100 million of Notes from Credit Suisse, which were credit linked to a portfolio of residential mortgage backed securities (RMBS). Following the global financial crash in 2007/2008, write-downs on the RMBS led to Loreley's Notes losing their $100 million value by 2010.

Loreley has brought a claim against Credit Suisse Securities (Europe) Limited, Credit Suisse International, Credit Suisse Securities (USA) LLC and Credit Suisse AG alleging fraudulent misrepresentation around the sale of the Notes. Underlying this cause of action is wider fraudulent misconduct from Credit Suisse relating to the securitisation of the residential mortgages.

The claim is seeking recission of the Notes for inducing Loreley into a contract by fraudulent misrepresentation, and a claim in deceit for damages. The total value of the claim is approximately $160 million.

The case centres on the alleged representations made by Credit Suisse to investors and rating agencies regarding the residential mortgage securities surrounding the quality and characteristics of the underlying mortgage loans and the processes it used to assess those. Loreley alleges that:

> Credit Suisse informed investors that final decisions around loan approvals were made by their own underwriters. However, Credit Suisse's own documentation allegedly shows that third-party due diligence firms were regularly responsible for clearing loans with no oversight, and that Credit Suisse knew that their practices were defective through its own quality control processes.
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> Credit Suisse represented that the loan-to-value ratios for the underlying mortgages were all below 100%, and that they had no reason to believe that these appraisals were inaccurate. In fact, Credit Suisse frequently obtained broker price opinions showing that the appraisal values were overstated and, Loreley alleges, many of these were manipulated to fall just within the bounds of the tolerance allowing Credit Suisse to securitise the loan. Moreover, Credit Suisse often used the lower prices to purchase the loans and the higher prices for securitisation purposes (i.e. selling them on to investors).
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> Credit Suisse securitised many risky subprime loans without carrying out any credit and compliance due diligence on them, despite representing that it would carry out due diligence on every such loan.
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> Despite representations Credit Suisse's quality control process were intended to increase the quality of loans originated there was concern amongst Credit Suisse's management that quality control results could serve as a written record of defects with one employee remarking "[a]ll this really does is create a litigation file", and so sought to reduce documented confirmation of known defects.

On 18 January 2017, Credit Suisse entered into a $5.28 billion settlement with the United States Department of Justice for their actions surrounding the sale of residential mortgage-backed securities (RMBS). In the DoJ press release, then Attorney General Loretta Lynch stated that "Credit Suisse made false and irresponsible representations about residential mortgage-backed securities, which resulted in the loss of billions of dollars of wealth and took a painful toll on the lives of ordinary Americans". The Bank paid $2.48 billion as a civil penalty for their actions, and $2.8 billion in other relief to homeowners, borrowers and communities impacted by their activities.

Then Principal Deputy Associate Attorney General Bill Baer stated that "Credit Suisse claimed its mortgage-backed securities were sound, but in the settlement announced today the bank concedes that it knew it was peddling investments containing loans that were likely to fail".

The release details a statement of facts, agreed with Credit Suisse, providing a comprehensive set of information supporting Loreley's claim. In particular:

> *Credit Suisse has now acknowledged that "Credit Suisse repeatedly received information indicating that many of the loans reviewed did not conform to the representations that would be made by Credit Suisse to investors about the loans to be securitized." It has acknowledged that in many cases, it purchased and securitized loans into its RMBS that "did not comply with applicable underwriting guidelines and lacked sufficient factors" and/or "w[ere] not originated in compliance with applicable laws and regulations." Credit Suisse employees even referred to some loans they securitized as "bad loans," "'complete crap' and '[u]tter complete garbage.'"*

Loreley's case identifies 14 individuals at Credit Suisse involved in the alleged RMBS misconduct, and two involved in the sale of the Notes. However, Credit Suisse has served evidence from only four of the 14 individuals involved in the alleged RMBS misconduct, and only one of the two involved in the sale of the Notes. The absent individuals include Kareem Serageldin, who was sentenced to 30 months in a US federal prison for fraudulently inflating bond prices in a Credit Suisse RMBS trading book.

Loreley's pleadings note that, despite the admissions in the DoJ statement of facts, Credit Suisse denies that those show any misconduct on behalf of the bank and also denies making any actionable misrepresentations to investors or rating agencies in relation to RMBS at all. Further, Credit Suisse also denies that if most of the representations were made, that they were false, despite contemporaneous email evidence to the contrary.

Last year, Credit Suisse also entered into a $495 million settlement of similar claims in relation to its RMBS business brought by the New Jersey Attorney General. The year before that, it entered into a $600 million settlement with monoline bond insurer MBIA. These credit crisis legacy issues sit amongst the raft of other allegations of misconduct which have surrounded Credit Suisse's descent into cultural failure which UBS management claims it will now be rooting out.

The case was filed in November 2018, and the trial is scheduled to run from Thursday, 20 April 2023 to 15 June 2023**.**

The Notes

In July 2007, Loreley engaged in a $100 million collateralized debt obligation (CDO) transaction with Credit Suisse in the form of Notes. The Notes purchased by Credit Suisse were linked via credit default swap to the credit of a portfolio of 100 RMBS. 12 of these RMBS were packaged, securitised or underwritten by Credit Suisse themselves, or their affiliates.

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Each of the RMBS comprised rights to cash-flows arising from the underlying mortgage loans, resulting in the Notes purchased by Loreley being reliant on the credit of the RMBS, which in turn were reliant on the underlying mortgage loans.

Loreley alleges that amongst other things Credit Suisse represented to Loreley that the Notes purchased would be triple A credit rated, while also representing that the underlying RMBS would have at least an A credit rating. They allege that Credit Suisse would be aware, at the very least, of the potential infection of the 12 Credit Suisse RMBS by their hidden misconduct in securitising these, and that the credit risk of investing in these products would be much higher that advertised.

RMBS products played a major role in the subprime mortgage crisis, one aspect of the 2007/2008 global financial crisis, and Loreley was one of many investors damaged by the actions of financial institutions in originating and offering these products.

Companies Involved

Loreley was incorporated in Jersey as a commercial investment vehicle of IKB Deutsche Industriebank AG. Loreley invested in CDO products, including with Credit Suisse. In 2007, IKB was bailed out by the German public sector banking institution the KfW, which is now the main creditor of Loreley.

Credit Suisse is a Swiss-based investment bank with offices around the world. Following a collapse in share price in March 2023, UBS announced its intent to acquire Credit Suisse for $3.25 billion in a deal brokered by the Swiss government.

The Legal Teams

Loreley is represented by Tim Lord KC, Fred Hobson, Ben Woolgar and Andris Rudzitis (Brick Court Chambers), instructed by Reynolds Porter Chamberlain LLP

The **Credit Suisse defendants** are represented by Patrick Goodall KC, Adam Sher, Laurie Brock and Marcus Field (Fountain Court Chambers), instructed by Cahill Gordon & Reindel (UK) LLP

The case number is FL-2018-000019.