JEFF MERKLEY
OREGON

COMMITTEES:
APPROPRIATIONS
BANKING, HOUSING, AND URBAN AFFAIRS
BUDGET
ENVIRONMENT AND PUBLIC WORKS

United States Senate

WASHINGTON, DC 20510

May 05, 2016

Janet L. Yellen
Chair
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

Thomas J. Curry
Comptroller of the Currency
Office of the Comptroller of the Currency
400 7th St. SW
Washington, DC 20429

Mary Jo White
Chair
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Timothy G. Massad
Chairman
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Martin J. Gruenberg
Chairman
Board of Directors of the Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

Dear Chair Yellen, Comptroller Curry, Chairman Gruenberg, Chair White, and Chairman Massad:

Press reports in March highlighted the mounting losses at Credit Suisse Group AG (Credit Suisse) due to its holdings of distressed credit and securitized loans of distressed assets. I was particularly troubled to learn that Tidjane Thiam, the Chief Executive Officer, was unaware of the holdings, as were many senior leaders within the firm. Even more startling is the recent report about the continued "finger-pointing and confusion over $1 billion loss."[1]

Although Credit Suisse is headquartered in Switzerland, the vast majority of its trading operations are located in New York and London. Given the reforms in the Dodd-Frank Wall Street Reform and Consumer Protection Act and the Volcker Rule in particular, as well as similar reforms implemented in the United Kingdom, how is it possible that "the size of the positions on the bank's trading book 'was a surprise for a number of people and was not a widely known fact'?[2]

---

[1] Max Colchester, John Letzing, and Jenny Strasburg, "Inside Credit Suisse, Finger-Pointing and Confusion Over $1 Billion Loss," The Wall Street Journal, April 28, 2016. Accessed April 28, 2016. Available at: http://www.wsj.com/articles/inside-credit-suisse-finger-pointing-and-confusion-over-1-billion-loss-1461868516.

[2] Chad Bray et al, "Credit Suisse Chief Says Risky Bets Were A Surprise," *N.Y. Times*, March 24, 2016, http://www.nytimes.com/2016/03/24/business/dealbook/credit-suisse-cost-cutting.html?emc=dlbkpm&emc=edit_dlbkpm_20160323&nl=%3Fnl%3Ddlbk&nlid=66212220&_r=0.

313 Hart Senate Office Building
Washington, DC 20510
(202) 224–3753
Fax (202) 228–3997

121 S.W. Salmon Street
Suite 1400
Portland, OR 97204
(503) 326–3386
Fax (503) 326–2900

Not only was it a surprise, but Credit Suisse posted "a bigger-than-expected loss in the fourth quarter as a result of $633 million in write-downs on mainly distressed credit and securitized pools of risky loans."[3] In early March, Credit Suisse "was projecting further write-downs of $346 million, that when combined with a downturn in global markets that has depressed revenue trading, will probably wipe out first quarter profit."[4]

Credit Suisse's apparent failures to effectively oversee its risky trading operation bring to the surface an on-going concern I have regarding whether the Volcker Rule, which former Senator Carl Levin and I helped draft, is being implemented as intended. As its authors in 2010, we intended the Volcker Rule to be a modern Glass-Steagall Act that separates high-risk trading activities from banking organizations that serve customers by making loans and facilitating the raising of capital. While the overall decline in trading revenues across the large bank sector could, in fact, indicate that banks have reduced proprietary trading, the lack of transparency to date makes it impossible for the public – or Congress – to know whether that is true.

As such, the public, and many in Congress, remain deeply concerned about the continuing risks emanating from large, concentrated financial firms engaged in potentially dangerous trading activities, such as those that Credit Suisse appears to have engaged in here. If regulators are unwilling or unable to implement the Volcker Rule in a way that gives the public confidence that it has pushed high-risk trading out of banks, then we in Congress will have to consider other policy solutions.

Former Senator Levin and I have asked for additional transparency previously, but to date little has been provided. Transparency should include delayed or aggregated reporting of metrics, information about covered fund ownership, and information on examination and enforcement activities. To put it very simply, how can the American public have confidence that banking organizations are complying with the Volcker Rule when this type of massive loss can occur?

Given the Volcker Rule's important role in protecting the taxpayers from outsized bets that could imperil the firm and create conflicts of interests, and the authors' desire for it to serve as a meaningful structural division, I would like responses to the following questions:

1. Please describe in detail the nature of the activities or positions involved in Credit Suisse's surprise losses, what specific trading desks were involved and where they were located, and which regulatory agencies, including those in foreign jurisdictions, were responsible for overseeing them.
2. Who at Credit Suisse knew that these assets were held by the firm? How did the firm evaluate their risk, or how should it have been evaluated?
3. Are Credit Suisse's "outsized" positions in risky and hard-to-sell securities potentially a violation of the Volcker Rule? If not, why not?

---

[3] Jeffrey Voegeli, "Credit Suisse Had No Blind Spots on Illique Assets, Rohner Says," *Bloomberg*, March 31, 2016, http://www.bloomberg.com/news/articles/2016-03-31/credit-suisse-had-no-blind-spots-on-illiquid-assets-rohner-says.

[4] Ibid.

4. Please describe the structure of the compensation of any traders or executives involved in the activities. Please discuss what factors would be considered to determine whether those compensation structures might be considered violations of the Volcker Rule.
5. When did financial regulators become aware of these activities or positions? Which regulators became aware and when? What information-sharing protocols are in place between your agencies to evaluate and monitor activities and positions?
6. What actions were taken by regulators once the positions became known?
7. Please discuss how the metrics that Credit Suisse reported relating to the activities or positions compared to the various limits for the relevant trading desk. In light of what has emerged, have your agencies evaluated the reasonableness of those limits, the accuracy of the metrics reporting, and the effectiveness of your agencies review and information sharing of those metrics?
8. What steps are you taking to evaluate the consequences for any failures identified in your review, and in particular, any penalties for Credit Suisse if they were found to have violated the Volcker Rule, including any reporting requirements under it?
9. Please update me regarding the steps that will be followed once a firm is believed by one of your agencies to be non-compliant with the Volcker Rule? What information is shared between agencies and when?
10. How do you intend to address the need for greater transparency for the public, and, where relevant, guidance for financial institutions, as it relates to implementation, compliance, and enforcement?

I look forward to your prompt response.

Sincerely,

Jeffrey A. Merkley

Jeffrey A. Merkley
United States Senator

cc: Hon. Jacob Lew, U.S. Secretary of the Treasury and Chair, Financial Stability Oversight Council
Hon. Richard Berner, Director, Office of Financial Research