

Report of the Independent Ombudsperson and
Independent Advisor to Credit Suisse

February 15, 2023

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INTRODUCTION AND EXECUTIVE SUMMARY

The role Swiss banks played in facilitating, protecting, and profiting from the Nazi regime has been the subject of interest and controversy since World War II. Many Swiss banks have been called upon to account for their actions, particularly after global interest surged in the 1990s regarding their retention of assets held in the accounts of those who were murdered by the Nazis during the Holocaust and the failure to return those assets to their rightful heirs. Credit Suisse Group (“Credit Suisse” or the “Bank”) was no exception, and at the time, its then-Chairman Rainer Gut gave his “personal assurance that we are ready to thoroughly investigate our past and to lay open the results for all to see.”¹ His successor Lukas Muhlemann likewise wrote in 2001, “[w]e cannot change history, we cannot change our past. But we can, and we want to, learn the vital lessons that history teaches us.”²

In early 2020, the Simon Wiesenthal Center (“SWC”)—an international Jewish human rights organization named for famed Nazi hunter Simon Wiesenthal and dedicated to “teach[ing] lessons of the Nazi Holocaust to future generations”³—informed Credit Suisse that it had uncovered new information about the Bank’s historical servicing of Nazi clients and their enablers and asked the Bank to investigate. Although Credit Suisse participated in the investigations that took place in the 1990s, these new allegations once again tested Credit Suisse’s commitment to a full and open investigation into its role in World War II and its aftermath. Unfortunately, as detailed below, this was a test that, in the Ombudsperson’s view, Credit Suisse failed.

Such a failure was not preordained, however, and in Credit Suisse’s initial response, the Bank embraced the opportunity to investigate the concerns raised by SWC, first in word and then

¹ Credit Suisse Group Banks in World War II, Joseph Jung at 7 (2002).

² *Id.* at 8.

³ Statement of SWC, January 27, 2023.

later in deed. Echoing the language of its former chairmen, the Bank wrote to SWC in March 2020 that “Credit Suisse is committed to finding the truth as best we can using the information and means available still today. We are prepared to investigate the information you have provided to us and lay open – to the extent we are legally permitted – the results.”⁴

To carry out that commitment to SWC, Credit Suisse engaged a law firm and a reputable and experienced forensic team at a global consulting firm to conduct its investigation. To provide independent oversight of the Bank’s investigation so the results could be verified and trusted, in June 2021 the Bank solicited Neil M. Barofsky, a former federal prosecutor and Special Inspector General of the Troubled Asset Relief Program, to serve as an “Independent Ombudsperson” (or “Ombudsperson”). The Bank also hired as an “Independent Advisor” Ira N. Forman, former U.S. Special Envoy for Monitoring and Combating Anti-Semitism (or “Advisor”), to advise the Bank and Barofsky, to engage with Jewish community leaders regarding the investigation, and to ensure that the investigation would be conducted with the necessary sensitivity and without any unintended consequences. The Bank informed SWC of these hirings, assured SWC that it would conduct its investigation at the direction of Barofsky and Forman, and committed to provide the results of its review to SWC along with a subsequent public report by Barofsky and Forman.

Up until June 2022, Credit Suisse fully followed through on these commitments and began to make real progress in augmenting the historical record of its Nazi ties. First, it commenced an investigation into the original allegations made by SWC regarding a list of alleged Nazi-related Bank clients in Argentina. Next, working with Barofsky and Forman, the Bank obtained investigative leads from SWC regarding additional Nazi ties that SWC had said it had uncovered, and expanded its investigation to cover these new topics as well. The Bank facilitated Barofsky

⁴ Letter from Credit Suisse to SWC, March 4, 2020.

and Forman's oversight, providing them with the data access and support necessary to do their jobs. During this period of time, the Bank deployed substantial financial resources, employee effort, and senior management attention to the investigation.

Those early efforts bore fruit. The investigation found that it was highly likely that scores of the individuals originally referenced by SWC with ties to Argentina had accounts at Credit Suisse, including prominent Nazis. The investigation also began to uncover new facts about the role that Credit Suisse played in servicing accounts held or controlled by notable Nazis. For example, the investigation unearthed a document from Credit Suisse's files that confirmed the existence of an account controlled by a senior SS officer who was a representative of a holding company used by the SS to further the economic exploitation of Jews during the Holocaust. Notably, during the investigations of the 1990s, Credit Suisse made statements to Swiss investigators that made it appear as if there was no evidence of such an account among its files. But the Ombudsperson found the document among the Bank's 1990s-era workpapers, thereby raising significant questions about the Bank's apparent failure to previously disclose that account and, thus, about the Bank's general level of candor during the investigations of the 1990s. Also uncovered were at least three additional Nazi accounts that had been searched for in the 1990s but also not disclosed, along with what the Bank described as previously unknown information about the Bank's efforts at the time to protect a Nazi businessperson's assets from seizure. According to the historian retained by the Independent Ombudsperson, these preliminary discoveries identified "new and important facts" which contribute to "the historical knowledge" of "the relations of the CS banks with the Nazi regime." To the Bank's credit, as these discoveries were first coming to light in the Spring of 2022, Bank management explicitly recognized their

seriousness and committed the Bank to see the investigation through, no matter how uncomfortable the historical truths might prove to be.

This level of cooperation abruptly changed in June 2022, after the senior executive who was directing this investigation was replaced. Credit Suisse then began a series of actions to curtail and eventually terminate the investigation, thereby falling short of the standards set by its former chairmen and the assurances provided by its most recent executives. Rather than continuing to “thoroughly investigate [the Bank’s] past and to lay open the results for all to see” as those prior executives at the Bank had assured SWC the Bank would do, new leadership—after reviewing the results described above—determined that the Bank would walk away from those commitments. For example, instead of pursuing the new evidence that was being developed, the Ombudsperson observed the Bank limiting aspects of its own investigation. Although it had previously told SWC it would investigate core allegations, such as the Bank’s role in assisting Nazis who fled justice in the aftermath of World War II, the Bank shut those efforts down before they began. The Bank halted oversight by no longer providing Barofsky and Forman with access to necessary information and data about its investigative efforts. And the Bank insisted that this Report should not have been written or made public. From SWC’s perspective, Credit Suisse “prematurely terminated” Barofsky’s investigation and failed to “follow through on its commitments.”⁵

To explain its decision to end independent oversight, Credit Suisse’s newly installed leadership over the investigation insisted, among other things, that further review of its Nazi ties was unnecessary. The Bank pointed to the work done during its previous historical efforts, claimed that its forensic team had allegedly “thoroughly examined” SWC’s allegations, that newly discovered evidence was not “anything new of material substance,” and that “further work by [the

⁵ Statement of SWC, January 27, 2023.

Independent Ombudsperson’s team] is [not] necessary.”⁶ But the Bank’s stated justifications cannot be squared with the facts discovered, as detailed in this Report. Indeed, Credit Suisse’s decision to stop its review midstream has left many questions unanswered, including questions about the thoroughness of its prior investigative efforts, the extent to which it served Nazi interests, and the Bank’s role in servicing Nazis fleeing justice after the war.

In sum, although necessarily limited by Credit Suisse’s decision to curtail sharing of information with the Ombudsperson, the Ombudsperson reached the conclusion—as required by the engagement letter (“Engagement Letter”)—that the Bank’s investigation was not “suitable for the purpose of identifying as much information as reasonably possible,” because it did not “include[] all reasonably available” sources of information. Further, to the extent the Bank has shared or characterized its conclusions with the Ombudsperson, the Ombudsperson finds that they are not “a fair and accurate description of their work and their findings”⁷

Forman’s engagement as the Independent Advisor also required him to report on his independent conclusions. As detailed in Part VI below, his primary concern is that Credit Suisse’s actions, and SWC’s and the broader public’s reaction to them, may result in broader unintended consequences that go beyond the four corners of the Bank’s investigation. This includes reputational damage to the Bank, as well as potentially triggering a reprisal of the antisemitic backlash that occurred in the 1990s when Swiss banks last publicly conflicted with American-based Jewish organizations regarding their role in the Holocaust.⁸ In other words, as SWC itself has warned, the Bank may find itself “on the wrong side of history yet again,” with its conduct publicly viewed as “another example of its refusal to accept full responsibility for its role as a bank

⁶ Email from Credit Suisse to Ombudsperson, November 8, 2022.

⁷ Engagement Letter at 1–2.

⁸ Stuart E. Eizenstat, *Imperfect Justice*, PublicAffairs (2003) at 340.

to, and financier of, the Nazis during and after the Holocaust. Rather than transparently confront its history and lead the way to a more tolerant world, Credit Suisse AG's leadership chose the opposite"⁹

This Introduction and Executive Summary further summarizes the investigative steps that were taken, as well as the investigative steps the Bank chose not to take, to evaluate SWC's allegations and sets forth the findings resulting from the investigative steps that were taken.

* * *

The Initiation and Scope of this Engagement

In March 2020, SWC issued a press release (the "Press Release") announcing that an investigator had discovered a list of 12,000 Nazis connected to a labor union in Argentina, many of whom "contributed to one or more bank accounts" at Schweizerische Kreditanstalt ("SKA"), a predecessor bank of Credit Suisse. SWC followed up with a letter to Credit Suisse, in which it informed the Bank that it believed that these bank accounts contained looted money from Jewish victims.¹⁰ As detailed further in Part I below, that letter and Press Release kicked off a period of communications between SWC and Credit Suisse in which Credit Suisse pledged to investigate SWC's allegations and to share any results with SWC. At the same time, Credit Suisse hired a law firm and a forensic team at a global consulting firm, AlixPartners, to oversee the investigation of the allegations in the Press Release.

During its communications with Credit Suisse, SWC indicated that it was not acting alone, but had "joined forces" with a Roman Catholic Priest who was a leading Vatican expert on the Holocaust. That expert described his joint investigation with SWC as part of a "powerful interfaith effort to hold accountable all institutions that provided a financial platform and sanctuary to Nazis

⁹ Statement of SWC, January 27, 2023.

¹⁰ Letter from SWC to Credit Suisse, March 4, 2020.

and Nazi assets during and after the war.”¹¹ SWC further indicated that this investigation had identified additional evidence of previously unknown connections between Credit Suisse and Nazis outside of the Argentina-focused activities originally alleged in the Press Release. Although SWC refused at the time to share with Credit Suisse its source materials, it told the Bank that its evidence indicated, among other things, that Credit Suisse had undisclosed relationships with Nazis, that Credit Suisse had been involved in facilitating the escape routes for Nazis fleeing Germany to avoid prosecution after World War II (known and hereinafter referred to as “the Ratlines”), and that Credit Suisse facilitated transfers of assets abroad for Nazis.

Following those communications, Credit Suisse grew concerned that SWC possessed undisclosed evidence and information about the Bank’s Nazi ties that had not previously been investigated. As a result, Credit Suisse tried to convince SWC to disclose its evidence and information, assuring SWC that if it were to do so, the Bank would investigate. But, given the lack of trust between SWC and Swiss banks that arose out of the bitter disputes in the 1990s over the Swiss banks’ retention of assets belonging to Jewish heirs of victims of the Holocaust, SWC was unwilling to share details with Credit Suisse for fear that the Bank would decline to act or, worse, destroy or conceal records corroborating SWC’s allegations. By late 2020, talks between SWC and Credit Suisse about the Bank obtaining additional investigative leads from SWC had reached a standstill.

In an effort to break the logjam, Credit Suisse created two positions to demonstrate to SWC that it was committed to a complete, transparent, and impartial investigation:

- First, Credit Suisse created the role of Independent Ombudsperson and retained Barofsky to fill it. Credit Suisse designed the role to provide independent oversight of its investigation, with contractual guarantees of independence, access to documents and information, and the responsibility to prepare a report that would be released to the public. The Bank

¹¹ Statement of SWC, January 27, 2023.

specifically sought out Barofsky for the role of Independent Ombudsperson due to its nearly seven years of experience working with him during his former role as the Independent Monitor of Credit Suisse AG arising out of the Bank's 2014 settlement with the New York State Department of Financial Services ("DFS") and his ongoing role as the Independent Monitor of Credit Suisse Securities (USA) LLC arising out of its 2017 settlement with the United States Department of Justice ("DOJ"). Those experiences, the Bank told Barofsky, would, along with his prior government service, fulfill the key purpose of bringing the project the credibility it needed for SWC to trust the work the Bank was doing. Bank leadership also cited its prior work with Barofsky as an assurance that he would approach the project with the same level of rigor and toughness that he had brought to those previous monitorships, and therefore would leave no stone unturned. Later, the Bank also cited Barofsky's reputation for "prepar[ing] quality reports" as one of the reasons the Bank retained him. As the Bank summarized to SWC, its "decision to engage Mr. Barofsky was based on . . . the depth of his experience and impeccable international reputation," as well as how "he was . . . uniquely positioned to be thorough and efficient in his oversight of the instant effort."¹²

- Second, Credit Suisse created the role of Independent Advisor for which it retained Forman, an internationally renowned expert on antisemitism. Credit Suisse designed the Independent Advisor role to, among other things, provide historical and cultural context to the investigation and to interface with the Jewish community and other stakeholders. Forman was well-situated for this role due to his prior experience monitoring antisemitism, including through working with Jewish community groups. His previous role as the U.S. State Department's Special Envoy to Monitor and Combat Antisemitism, as well as his current position as a Visiting Professor and Senior Fellow at Georgetown University's Center for Jewish Civilization and past positions such as the Executive Director of the National Jewish Democratic Council, would allow him to establish trust with scholars, government entities, and Jewish community groups involved in the process.

With these roles filled, Credit Suisse made assurances to SWC that it was committed to ensuring that its review was "conducted appropriately" and that the "concerns for which [SWC had] provided information were thoroughly and transparently addressed."¹³ Credit Suisse also reassured SWC that if it were to privately share its evidence of the Bank's Nazi ties with Barofsky

¹² Letter from Credit Suisse to SWC, July 21, 2021.

¹³ *Id.*

and Forman, they “could keep confidential what is provided to them, but otherwise use it to further direct the work” of the Bank’s consultants conducting the Bank’s investigation.¹⁴

SWC’s Decision to Share Information with Credit Suisse

In October 2021, “relying on Credit Suisse[’s] . . . commitments and pledge that a thorough and complete investigation of *all* of [SWC’s] concerns . . . would be completed and published in a report,”¹⁵ SWC confidentially shared with Barofsky and Forman the names of additional Nazi-related individuals and entities that SWC believed had ties to Credit Suisse beyond what SWC had alleged in the Press Release, along with details supporting these additional areas of concern.¹⁶ SWC also shared, both directly with Credit Suisse and with the Independent Ombudsperson and Advisor, that SWC had concerns about the thoroughness of the prior investigations into Credit Suisse’s ties to Nazis that were conducted in the 1990s and the extent of the Bank’s cooperation with them. This included specific concerns regarding Credit Suisse’s prior efforts to investigate a list of some of the most notorious and high-level Nazis and their financial supporters that SWC provided to the President of the Confederation of Switzerland, which was passed on to the Bank in 1997 (the “1997 SWC List”). SWC also expressed concern about the scope and effectiveness of Credit Suisse’s participation in the “Bergier Commission” set up by the Swiss government in the 1990s to investigate the role of Switzerland, including the Swiss banks, during World War II, and which published numerous reports that relied on extensive research—including work reviewing the files of the banks themselves. SWC alleged that Credit Suisse “obfuscated” this and other 1990s era investigations into its Nazi past.¹⁷

¹⁴ *Id.*

¹⁵ Statement of SWC, January 27, 2023.

¹⁶ October 25, 2021 Meeting between Ombudsperson and SWC.

¹⁷ Email from SWC to Credit Suisse, July 12, 2020.

In November 2021, based on the information and concerns that SWC had confidentially provided to them, the Independent Ombudsperson and Advisor made several findings as to the necessity of expanding Credit Suisse's investigation beyond the original Argentine allegations contained in the Press Release, and sought Credit Suisse's agreement to do so.¹⁸ As detailed further in Part III below, the additional items to be investigated included the following:

- Re-examining key lists of Nazis previously reviewed during the investigations in the 1990s—the 1997 SWC List and a list of Nazis accused at Nuremberg—to investigate whether such Nazis held accounts at Credit Suisse, using the Bank's modern forensic review process, which included more sources of data and fewer restrictions than the Bank's 1990s historical review;
- Investigating the names of particular Nazis as well as Nazi-related individuals and entities that SWC authorized the Independent Ombudsperson to disclose to Credit Suisse for further investigation;
- Investigating the names of individuals that were known to have used or facilitated the Ratlines; and
- Investigating the potential existence of dormant Nazi accounts that were sought by Nazi heirs.

Credit Suisse, through its Executive Board, accepted those findings with some limited exceptions, and committed to SWC (through the Independent Ombudsperson) that it would expand the scope of its investigation to include these additional areas. Credit Suisse then began to work with the Ombudsperson and Advisor to implement their recommendations for carrying out the expanded investigation with the Ombudsperson's oversight. After further discussion, as discussed in Part III below, this led to the Bank agreeing to initially investigate or consider investigating approximately 850 additional names.¹⁹ This expanded list was thus modest in comparison to the

¹⁸ November 17, 2021 Meeting between Credit Suisse, Ombudsperson, and Advisor.

¹⁹ Comprising these approximately 850 names are: 334 names on the 1997 SWC List, 201 names on the list of those accused at Nuremberg (75 of which were also on the 1997 SWC List), 366 individuals who were known to have used or facilitated the Ratlines, and approximately 10 individuals and entities identified by SWC.

approximately 10,000 names²⁰ that the Bank had by that time already run through its consultant's forensic review process in connection with the allegations in the SWC Press Release.

For its part, SWC later explained its understanding of the arrangement: "Credit Suisse AG committed to an independent and comprehensive forensic investigation to fully address the SWC's findings in exchange for our cooperation, non-disclosure of the investigation, and forbearance from seeking accountability in other forums pending the outcome."²¹ SWC further explained that pursuant to this arrangement, SWC lived up to its end of the bargain, fully cooperating with Barofsky and Forman while making no further public statements or taking any further public action as it awaited the results from Credit Suisse that the Bank had promised to share.

Initial Findings Relating to the SWC Press Release

Until June 2022, Credit Suisse worked diligently under the Independent Ombudsperson and Advisor's oversight to investigate SWC's allegations. With regard to the Press Release, that investigation—at least to the extent its findings were disclosed to the Independent Ombudsperson—did not find evidence to support all of SWC's allegations, but did uncover previously undisclosed accounts that Credit Suisse had very likely held for prominent Nazis in Argentina.

Among the Press Release's main allegations was that an investigator had uncovered a list of 12,000 "Nazis," who were members of the labor union—Unión Alemana de Gremios ("UAG")—and that many of those individuals "contributed funds" to one or more bank accounts

²⁰ As discussed in Part V below, this consists of 9,481 names on the list of UAG members (the 12,000 on the list provided by SWC, with duplicate names removed), and approximately 700 names of individuals on a list of members of the Argentine Nazi party not included on the UAG list.

²¹ Statement of SWC, January 27, 2023.

at Credit Suisse's predecessor SKA.²² The Press Release alleged that those funds may have been looted from Jewish victims and that the funds may remain at Credit Suisse in dormant accounts.

Credit Suisse's interim findings from this investigation, which were shared with the Independent Ombudsperson in May 2022, showed mixed results. These findings, together with the Independent Ombudsperson's separate review of the investigation's interim results, showed that it was highly likely that Credit Suisse maintained accounts for eighty individuals who were members of the Nazi Party in Argentina or members of the UAG, including some who played key roles in furthering the Nazis' goals in Argentina. Most of the accounts discovered were opened after World War II, and the Independent Ombudsperson did not identify evidence that any of the accounts were presently open or dormant.

Credit Suisse's investigation into the allegations of the Press Release reached other preliminary conclusions as well. In addition to the forensic review, Credit Suisse hired an historian with expertise on European monetary and financial history, including during the World War II era, to address some of the gaps left by the forensic review. The work of that historian began to confirm certain aspects of the Press Release. For example, the Bank's historian confirmed that a bank closely affiliated with the UAG—the Bank of German Labor—had an account at Credit Suisse.²³ The historian also remarked that it was well-known that Nazi groups in foreign countries, such as UAG's predecessor, had transferred money back to Germany itself, but noted he had not found documents in the Bank's records that would enable him to verify transaction-level detail, potentially because the Bank had destroyed almost all transaction related documents from that era. The historian further confirmed through archival research that there was a business relationship

²² Press Release, SWC, Wiesenhal Centre Reveals 12,000 Names of Nazis in Argentina, Many of Whom Apparently Had Accounts Transferred to Credit Suisse (Mar. 2, 2020), <https://www.wiesenhal.com/about/news/wiesenhal-center-argentina-nazi.html>.

²³ November 17, 2021 Meeting between Ombudsperson, Advisor, the 2021 Historian, and Credit Suisse.

between Credit Suisse and Banco Germanico de America del Sur, one of the German banks the Press Release identified as being involved in the transfer of Nazi assets to Switzerland.²⁴

But, because the historian's availability was limited, he was not able to complete the work originally contemplated by Credit Suisse. Recognizing the need for additional support, Credit Suisse requested that the Independent Ombudsperson retain a second historian for the task. Although the Independent Ombudsperson did so—hiring a World War II scholar and Bergier Commission researcher and contributor (the “Independent Historian”)—the Bank ultimately refused to provide that historian with access to Bank records and archives, rendering him unable to complete the job that had already been started. Similarly, Credit Suisse informed the Independent Ombudsperson that it would not fund the retention of an Argentine expert that the Ombudsperson had found at the request of prior Bank leadership.

Although Credit Suisse's investigation resulted in new findings about the Bank's past, various aspects of the Press Release were not borne out by the portion of the investigation to which the Independent Ombudsperson was provided access. For instance, although, as noted above, eighty accounts were identified that were highly likely to have been held by those on the lists referenced in the Press Release, these findings alone did not corroborate the allegation—to the extent the Press Release can be read to make one—that a large portion of the individuals on the list of 12,000 Argentine Nazis themselves maintained or “transferred accounts” to Credit Suisse in their own names that remained open but dormant at the Bank. Further, to the extent the Press Release can be read to allege that accounts at Credit Suisse were funded by or contained looted assets obtained by these individuals, such an allegation was similarly not proven by the portion of the Bank's investigation that it shared with the Independent Ombudsperson. However, the Bank's

²⁴ November 17, 2021 Meeting between Ombudsperson, Advisor, the 2021 Historian, and Credit Suisse.

destruction of documents, described in Part IV below, would have made it difficult to find such evidence even if it had existed at one time.

Still, as noted in Part V below, there was more Credit Suisse could have done to investigate the allegations of the Press Release. The Bank ultimately rejected the Ombudsperson's recommendations that it allow an historian to review the unexamined portions of Credit Suisse's physical archives, and that the Bank review its relevant databases from all of its relevant predecessor banks. The Bank also failed to provide the Ombudsperson with access to the investigation's final results, even after the Bank had indicated—in August 2022—that it had concluded its efforts. This left the Ombudsperson unable to make any final determinations as to the allegations in the Press Release.

New Findings Made Pursuant to the Non-Argentine Leads Provided By SWC

In addition to its work on the Press Release, Credit Suisse also conducted additional preliminary work into the other topics that it agreed to investigate in December 2021 after the Bank had persuaded SWC to confidentially share its additional investigative leads with the Independent Ombudsperson and Advisor. Shortly after it started its work on some of these matters, the Bank began to find evidence that included previously unknown details about its past relationship with Nazis that corroborated some of SWC's allegations, including SWC's concerns about the integrity of the Bank's previous investigative efforts.

First, Credit Suisse's preliminary investigative efforts uncovered evidence of a previously undisclosed account at Credit Suisse's predecessor, SKA, including its account number, which was apparently controlled by a senior officer of the Nazi SS. The Bank later described this officer as a representative of Deutsche Wirtschaftsbetriebe GmbH ("DWB")—a holding company for numerous SS companies that had been entrusted with the economic exploitation of the Jews

murdered by the Nazis and that had been specifically identified by SWC for investigation because of SWC's concern that the company had a relationship with Credit Suisse.²⁵

This finding called into question the accuracy of representations that Credit Suisse had made in the 1990s about its relationship to DWB. As part of its investigation in the 1990s, the Bergier Commission identified non-bank correspondence in German archives in which an SS official made reference to a DWB account at SKA from which three of DWB's representatives (all SS officers) were authorized to withdraw money.²⁶ The Bergier Commission's report, however, noted that, when it asked Credit Suisse to confirm the existence of such an account, Credit Suisse responded that it had "found no information in [its corporate archive] that SKA maintained a business relation[] with DWB or its subsidiaries."²⁷ The Bergier Commission thus stated in its public report that relevant SKA records relating to a DWB account did not exist.²⁸ The Bergier Commission further noted that although publicly available records indicated that the Bank had a "customer relationship" with the three SS officials who were DWB representatives, the Bank stated that here too it no longer had any records.²⁹ The Independent Ombudsperson, however, discovered that the account document described above establishing a relationship with one of the three DWB representatives *was in fact* contained within the Bank's working papers collected as part of its 1990s historical investigation, even though it was apparently never disclosed by the Bank to the Bergier Commission.

²⁵ Bergier Commission, Vol. 9, *Tarnung, Transfer, Transit. Die Schweiz als Drehscheibe verdeckter deutscher Operationen* (1939–1952) (2002), at 164–65.

²⁶ Bergier Commission, Vol. 9, *Tarnung, Transfer, Transit. Die Schweiz als Drehscheibe verdeckter deutscher Operationen* (1939–1952) (2002), at 168–69 & nn. 244–45.

²⁷ April 13, 2022 Ongoing Research Update Presentation at 19.

²⁸ Bergier Commission, Vol. 9, *Tarnung, Transfer, Transit. Die Schweiz als Drehscheibe verdeckter deutscher Operationen* (1939–1952) (2002), at 169.

²⁹ Bergier Commission, Vol. 9, *Tarnung, Transfer, Transit. Die Schweiz als Drehscheibe verdeckter deutscher Operationen* (1939–1952) (2002), at 151, 168–69 & nn. 244–45.

Second, Credit Suisse discovered what it described as previously unknown details about the Bank's actions that helped a Nazi businessperson shield his company's assets, worth hundreds of millions of U.S. dollars in today's value, from seizure, and how Credit Suisse later fully acquired and then later used the company as a vehicle to pay Bank executives.

Third, Credit Suisse disclosed to the Independent Ombudsperson that it had found additional accounts for Nazis on the 1997 SWC List that it had previously not found or disclosed. Although the Bank did not name the Nazis, or the total number of Nazis found, it is apparent from the context of its disclosures that there are at least three additional 1997 SWC List accounts identified by the Bank that were not previously disclosed as part of the Bank's prior investigative work. As discussed in Part III below, this review, which the Bank represented was concluded months before it terminated the Ombudsperson and Advisor, was undertaken outside of their oversight.

Credit Suisse's Decision to Terminate Independent Oversight

Credit Suisse's cooperation with and transparency to the Independent Ombudsperson and Advisor—and through them, SWC—began to cease in June 2022, after Credit Suisse replaced the leadership over the investigation and new leadership took a series of actions that increasingly limited the Ombudsperson and Advisor's ability to oversee the Bank's investigation, including by limiting their access to AlixPartners, to Credit Suisse's archives, and to other crucial information about the Bank's investigation. After a series of false starts in which restoration of this access was assured but not delivered, in November 2022, the Bank informed the Ombudsperson that it had determined that the information related to its Press Release Investigation that it had withheld from the Ombudsperson was "consistent" with information already shared, and that therefore "further

follow up work by your team is not necessary.”³⁰ With respect to the other SWC investigative leads, the Bank stated: “[b]ecause these matters are beyond the scope of your engagement and the work is almost finished, we do not believe that any further work by your team is necessary.”³¹ And notwithstanding its prior commitment to SWC that it would investigate the Bank’s role in supporting the Ratlines and other Nazi-related topics, the Bank stated that it would not do so. The Bank then provided notice of its intent to terminate the engagement of the Ombudsperson and Advisor, which termination became effective in December 2022.

In addition to asserting that it had never agreed to expand the scope of its investigation beyond the allegations of the Press Release, and that further oversight was unnecessary, Credit Suisse also offered as a justification for its leadership’s decision to limit its investigation and curtail the oversight of the Independent Ombudsperson that its prior investigations were sufficient for investigating SWC’s allegations. Each of the Bank’s claims, and the Independent Ombudsperson’s explanation as to why each of them is without support and belied by the record developed in this matter, is discussed in Part I below.

The Potential Impact of Credit Suisse’s Actions

Included as Part VI below is the report of the Advisor. It reports, among other things, the Advisor’s deep concern that Credit Suisse’s failure to live up to its commitments to SWC, along with the statements that it made justifying that decision, could have potentially significant unintended consequences, both for the Bank itself and impacted Jewish communities.

First, Credit Suisse’s more recent actions have impaired the credibility of the admirable work that it had accomplished before June 2022 and raise significant questions as to why it would

³⁰ Email from Credit Suisse to Ombudsperson, November 8, 2022.

³¹ *Id.* This appeared to be inconsistent with Credit Suisse’s statement months earlier in August 2022 that “AlixPartners has completed its review of the SWC List AlixPartners has also completed its review of the additional names.” Letter from Credit Suisse to Ombudsperson, August 26, 2022.

cut off its investigation and oversight just as the investigation began to yield significant and historically important results. Credit Suisse did a notable amount of work investigating the Press Release and made real progress in its preliminary review of the other issues raised by SWC. By cutting off and then terminating oversight before the investigation was completed, however, the Bank left unanswered questions about the thoroughness of its overall review and whether additional investigation may have yielded more complete results. For example, as detailed further in Parts III and V below:

- Credit Suisse terminated the Independent Ombudsperson's engagement before a complete investigation of an account controlled by a senior SS official/DWB representative could be subjected to oversight, leaving unanswered important questions regarding why the information about the account was not disclosed to the Bergier Commission, what happened with respect to the proceeds of the account, whether additional investigation into other individuals and entities identified by SWC would indicate other historically significant relationships that were previously undisclosed, and whether there were other similar failures of disclosure in the 1990s investigations.
- Although Credit Suisse informed the Independent Ombudsperson that it had identified previously undisclosed accounts for Nazis on the 1997 SWC List, Credit Suisse did not allow for oversight of any investigation it conducted into that list. This leaves serious questions about the Bank's thoroughness, and by not disclosing the names or number of Nazis that the Bank did discover, it invites speculation as to extent and the prominence of the Bank's Nazi clientele and why the Bank would refuse to disclose such critical information to the Ombudsperson and Advisor that it voluntarily hired to oversee its efforts. It also stresses the need to conduct a similar investigation into other high-profile lists of Nazis that the Ombudsperson indicated should be reviewed, such as the list of Nuremberg defendants, particularly because the Bank's investigation found at least one Nuremberg defendant associated with an account that should have been disclosed previously but was not.
- Although Credit Suisse assured SWC that it would investigate individuals who were known to have used or facilitated the Ratlines, it did not do so, even though the Independent Ombudsperson received information establishing that at least several well-known Ratlines participants and facilitators very likely had accounts at Credit Suisse, raising the question as to why the Bank changed course and what was found or may have been

found by the Bank had it stayed committed to conducting a comprehensive, transparent, and fully overseen investigation.

- Investigating and then submitting to oversight the approximately 850 names of Nazis and Nazi facilitators that the Bank originally committed to do or consider doing would have been a comparatively modest addition to the work already completed and overseen by the Independent Ombudsperson and Advisor—fewer than 10% more names than the Bank had already investigated. Given the comparatively small additional effort to complete these tasks with independent oversight, combined with the fact that the Bank had previously raised no complaints about the quality or efficiency of the Ombudsperson or Advisor’s work, leaves unanswered why the Bank would not fulfill its pledge to investigate these topics with independent oversight.
- Credit Suisse did not complete its search related to claims by Nazi heirs despite initially agreeing to do so and did not allow for the Independent Ombudsperson’s oversight into the Bank’s search for the heirs it had investigated, leaving the Ombudsperson unable to test or verify the Bank’s methodology or its findings, and leaving open the question as to what the Bank found, whether it took any actions in response to those findings, what it may have found if it had completed its efforts, and why the Bank would not allow this aspect of the investigation, which was part of the original allegations in the Press Release, to be overseen.
- Credit Suisse did not provide the Independent Ombudsperson with complete data concerning the findings of its Press Release Investigation and did not provide a final report from AlixPartners on their work or share their complete data set for review, raising questions as to whether the Bank discovered additional Nazi accounts, whether more could have been done as part of its investigation, what the impact may have been on the investigation had the Bank adopted the Ombudsperson’s recommendations to include in its investigation, whether such efforts would result in further corroboration of SWC’s allegations, and leaving questions as to the soundness of its justifications for its exclusions.
- Although stating that it investigated three entities named in the Press Release, namely IG Farben, Banco Aleman Transatlantico, and Banco Germanico de America del Sur, Credit Suisse did not share any findings as to its investigation, raising questions as to the extent and degree to which these entities held accounts at Credit Suisse, why the Bank would refuse to share these results, and whether the Bank’s investigative efforts into them were sufficient.
- Credit Suisse similarly did not fully investigate under independent oversight its connections to the Bank of German Labor, a Nazi-affiliated bank identified as having an account at Credit Suisse in an Argentine report

identified in the Press Release, even after its historian confirmed the existence of that relationship, again calling into question why Credit Suisse would not transparently further pursue this lead and whether such further investigation would further corroborate the allegations contained in SWC's Press Release.

- Credit Suisse refused to allow the historian engaged by the Independent Ombudsperson—at the Bank's urging—to review its archives, although the Bank had acknowledged and even suggested the need for an historian to do so and the prior historian had made certain important discoveries in his limited review of the archives. This also raises questions as to why the Bank would expend the resources to retain a highly credible, independent, and deeply experienced historian for a full year but then not deploy him to support or otherwise provide the necessary context for its investigation.
- Credit Suisse did not provide additional insight into the circumstances through which the company that the Bank had acquired from a Nazi businessperson came to be used as a vehicle for payment of Bank executives.

Second, Credit Suisse's decision to terminate oversight risks reputational damage based on the inevitable speculation as to what else may have been found or could have been found if the investigation and oversight were allowed to continue. As the Advisor warned the Bank, it is often what is perceived as a "cover up" that wreaks the most reputational damage, as observers will wonder whether the Bank backed out of its assurances to SWC because it has something to hide or is otherwise covering up troubling evidence. This risk is greatly enhanced by the lack of support for the justifications it has given for cutting off oversight and limiting its investigation, as detailed in Part I below, and by its efforts to prevent publication of this report.³² Indeed, SWC has already made this charge, even though it has only been informed that the Bank had terminated oversight and was no longer conducting the full investigation it promised, but not of the factual findings in this Report. For example, SWC expressed concern that Credit Suisse's actions were conducted "specifically to prevent the Independent Ombudsman and Independent Advisor from uncovering

³² Letter from Credit Suisse to Ombudsperson, January 25, 2023.

and publishing a report detailing the full scope of hidden Nazi Assets.” SWC further stated that in so doing, the Bank had failed to “accept full responsibility” and instead chose the “opposite” of “transparently confront[ing] its history and lead[ing] the way to a more tolerant world.”³³

This reputational risk will likely be compounded by the statements made by Credit Suisse to justify the termination of oversight and the investigations. As noted in Parts I and III below, Credit Suisse has made statements inconsistent with the views of the Independent Historian and its prior General Counsel regarding the importance of these findings and that instead seem to minimize their significance, the need to follow up on them, or the need to subject them to oversight. In so doing, they also appear to minimize the Bank’s conduct when it conducted business with these Nazis and the importance of finding and exposing the full context of these ties. For example, one Credit Suisse executive stated that SWC “owed the Bank an apology” for the allegations in the Press Release, even though scores of previously undisclosed relationships were confirmed, because not all of the allegations in the Press Release were proven.³⁴ Other statements that appear to minimize the significance of the Bank’s findings include:

- During a discussion about the discovery of an account linked to a Nazi convicted at Nuremberg, appearing to question the significance of this finding when an executive commented on the fact that the Nazi’s sentence at Nuremberg had been reduced;³⁵
- Appearing to downplay the import of its prior servicing of Nazi controlled accounts or its potential lack of candor with the Bergier Commission by stating that notwithstanding the evidence detailed in this Report, that the Bank overall “has not found anything new of material substance”³⁶ and that the Bank’s investigation resulted in “nothing to show” for the work it had done;³⁷

³³ Statement of SWC, January 27, 2023.

³⁴ July 20, 2022 Meeting between Ombudsperson, Advisor, and Credit Suisse.

³⁵ June 15, 2022 Meeting between Ombudsperson, Advisor, and Credit Suisse.

³⁶ Email from Credit Suisse to Ombudsperson, November 8, 2022.

³⁷ July 20, 2022 Meeting between Ombudsperson, Advisor, and Credit Suisse.

- Stating that the discovery of high-level Nazi accounts from the list that SWC had submitted decades ago that were opened after 1950 as not “relevant in this context.”³⁸

Third, Credit Suisse’s actions may also trigger public criticism given the assurances it made and did not fulfill to SWC. SWC described the Bank’s actions as a “bait-and-switch.”³⁹ As described by SWC in its statement to the Independent Ombudsperson on January 27, 2023, and as reflected by the correspondence and meetings described in this Report, there is no question that Credit Suisse had made repeated oral and written assurances to SWC that it would investigate SWC’s concerns and conduct “a thorough forensic review.” The Bank also made “a pledge to work collaboratively,” “committed to finding the truth,” and “pledged” that, at “the completion of [Barofsky and Forman’s] work, we will also share a copy of their final report with you.”⁴⁰ SWC further stated that:

Based on the representations, the SWC agreed in good faith to collaborate. We disclosed our confidential investigation findings to the Independent Ombudsperson and Independent Advisor. We did so relying on Credit Suisse AG’s commitments and pledge that a thorough and complete investigation of *all* of our concerns regarding the concealment of the Nazi Assets would be completed and published in a report.⁴¹

But, as SWC explained, the Bank did not follow through:

After the SWC shared its confidential investigation findings with the Independent Ombudsperson and Independent Advisor, Credit Suisse AG terminated [them]. It did so before their investigation was completed. This was not the comprehensive and complete forensic investigation to which Credit Suisse AG committed.⁴²

SWC thus describes the Bank’s actions terminating the investigation and the oversight of Barofsky and Forman as the Bank breaking its word:

³⁸ Letter from Credit Suisse to Ombudsperson, August 26, 2022.

³⁹ December 14, 2022 Call between Ombudsperson, Advisor, and SWC.

⁴⁰ Statement of SWC, January 27, 2023.

⁴¹ *Id.*

⁴² *Id.*

The SWC is concerned that Credit Suisse AG's senior leadership took these actions specifically to prevent [Barofsky and Forman] from uncovering and publishing a report detailing the full scope of hidden Nazi Assets. This is not how a publicly traded financial institution should conduct itself if, in fact, it seeks to be recognized as a good global corporate citizen. It also serves as a wakeup call to the SWC and anyone placing trust in [the Bank's] leadership to follow through on its commitments.⁴³

Finally, SWC concluded in its statement that "Credit Suisse AG's conduct here is another example of its refusal to accept full responsibility for its role as a banker to, and financier of, the Nazis during and after the Holocaust," and pledged to "vigorously pursue full accountability" as a result.⁴⁴

Fourth, there is the risk that the ensuing clash between Credit Suisse and SWC will have repercussions beyond the instant dispute. SWC, the Advisor, and a local Jewish community leader have all expressed the fear that the dark history of the 1990s—where a public dispute between Swiss Banks and American-based Jewish groups regarding the Holocaust triggered a wave of antisemitic backlash in Switzerland and elsewhere—will repeat itself. The difference that they have observed is that the current global environment for antisemitism is significantly more treacherous than it was decades ago, and that the Bank's adversarial stance risks contributing to a growing tide of global antisemitism and Holocaust denial that might be particularly fueled if the public perceives the Bank as publicly misstating or minimizing the concerns advanced by SWC and the evidence detailed in this Report.

⁴³ *Id.*

⁴⁴ *Id.* At the time that SWC provided the Ombudsperson with this statement, it was unaware of the factual findings set forth in this Report, including the newly discovered evidence of Credit Suisse's Nazi ties, its apparent lack of candor with the Bergier Commission, or the statements which appear to minimize its historical conduct.

Overview of the Contents of the Report

This Report chronicles the findings from the investigation as conducted before Credit Suisse terminated independent oversight and the actions by Credit Suisse that led to the premature termination; it also notes where additional work is needed to achieve a complete investigation.

The Report has six parts:

Part One provides an overview of the history and scope of the engagement, including the relationship between Credit Suisse and SWC, the hiring of the Independent Ombudsperson, and Credit Suisse's decision to walk away from its assurances to SWC.

Part Two contains an overview of the previous investigations conducted during the 1990s concerning the role of Swiss banks, and Credit Suisse in particular, during World War II, including an explanation of why these prior investigations were insufficient to fully address the claims made by SWC.

Part Three details the investigation of the non-Argentine leads provided by SWC, including the recommendations from the Independent Ombudsperson based on those leads, the initial findings of those recommendations, and additional evidence showing inadequacies of Credit Suisse's prior investigative efforts into these areas.

Part Four discusses Credit Suisse's relevant recordkeeping systems for older client accounts, including what the Bank has historically collected about its clients, the Bank's efforts in the 1990s to centralize and digitize its older records, and the Bank's destruction of older client files.

Part Five describes the forensic review of Credit Suisse's accounts related to the SWC Press Release, including the forensic review conducted by AlixPartners, the interim findings of AlixPartners, and the Independent Ombudsperson's testing of those findings.

Part Six includes the report of the Independent Advisor pursuant to the terms of his engagement letter.

I. OVERVIEW OF THE ENGAGEMENT

On March 2, 2020, the Simon Wiesenthal Center (“SWC”) sent a letter to Credit Suisse alleging that it had discovered a list of 12,000 Argentina-based Nazis, and that it suspected that many of them had “contributed to one or more bank accounts” at Schweizerische Kreditanstalt (“SKA”), a predecessor bank of Credit Suisse.⁴⁵ The letter also stated that SWC believed it was “very probable that these dormant accounts hold monies looted from Jewish victims.”⁴⁶ The same day, SWC issued a press release containing the same allegations (the “Press Release”).⁴⁷

Credit Suisse responded to SWC in a March 4, 2020 letter in which it committed to “finding the truth” and said it was “prepared to investigate the information [SWC had] provided and lay open – to the extent [] legally permitted — the results.”⁴⁸ As discussed below, in the months that followed, SWC and Credit Suisse exchanged correspondence in which SWC revealed that in addition to the allegations in the Press Release, it had also been investigating for years other previously unknown information concerning the Bank’s overall support of the Nazis, including those fleeing justice in the aftermath of World War II. Credit Suisse then attempted to convince SWC to share the details of its investigation into these areas. The Bank also initiated its own internal investigation into a portion of the allegations set forth in the Press Release.

As described below, early efforts at cooperation between Credit Suisse and SWC were

⁴⁵ Letter from SWC to Credit Suisse, March 2, 2020. Note that this Report uses the phrase “Credit Suisse” or the “Bank” to refer to Credit Suisse and also to its predecessor banks. In some places, the Report refers to the predecessor banks by their original name where appropriate and helpful for context. References to entities often encompass their agents, lawyers, or vendors. The footnoted citations of the Report generally refer to source material by reference to the employer or affiliated entity, not to individuals. For example, an email from a member of the Independent Ombudsperson’s team is cited as being from the “Ombudsperson,” and a phone call with a Bank employee references merely “Credit Suisse,” rather than the particular individual or individuals in attendance. In some instances, a particular name of an individual is used when relevant for context.

⁴⁶ Letter from SWC to Credit Suisse, Mar. 2, 2020.

⁴⁷ Press Release, Mar. 2, 2020.

⁴⁸ Letter from Credit Suisse to SWC, Mar. 4, 2020.

unsuccessful. Principally, Credit Suisse refused to commit to investigate the other areas that SWC identified without first seeing the evidence that SWC claimed it had uncovered. SWC, however, was unwilling to share that evidence with Credit Suisse due to its suspicion the Bank would decline to act, or worse—a fear it would destroy, minimize, or otherwise suppress records corroborating SWC’s allegations.⁴⁹ In an attempt to address these concerns, Credit Suisse proposed that it use an independent third-party intermediary between Credit Suisse and SWC,⁵⁰ and in June 2021, the Bank solicited Neil M. Barofsky to serve as Independent Ombudsperson. Barofsky was to serve not as an attorney or agent of the Bank, but in a purely independent role in which he would provide full oversight over the Bank’s ongoing investigation into the Press Release. As part of this role, Barofsky would work with SWC to obtain the details of its additional allegations in order to determine whether they merited expansion of Credit Suisse’s investigation to include these additional areas of inquiry under his oversight. Credit Suisse also engaged Ira N. Forman, an internationally renowned expert on antisemitism, to serve as Independent Advisor to the project to provide his advice and expertise to both the Bank and Barofsky, provide additional oversight over the Bank’s efforts, and assist Barofsky in his efforts to engage with SWC.

For almost a year, Credit Suisse worked cooperatively with the Independent Ombudsperson and Advisor to carry out the engagement. During that time, with regard to the Bank’s investigation of the allegations in the Press Release, the Bank provided the Independent Ombudsperson and Advisor with all of the access necessary to fulfill their oversight duties and worked cooperatively with the Ombudsperson’s team. Moreover, within months of being engaged, Barofsky and Forman were successful in establishing a collaborative relationship with SWC,

⁴⁹ For instance, at a meeting with Credit Suisse, SWC’s counsel stated that it would be “naïve” for SWC to believe that the Bank would use such information to “locate records rather than destroy them.” June 29, 2021 Meeting between SWC and Credit Suisse.

⁵⁰ Email from Credit Suisse to SWC, August 7, 2020.

which included obtaining information and evidence about Credit Suisse's Nazi ties that Credit Suisse had previously not been able to obtain from SWC directly. Following these efforts, the Bank made good on its previous promises to SWC that it would investigate any additional potential Nazi ties identified by SWC to Barofsky and Forman that they deemed necessary to the investigation, and began to do so under their oversight. By April 2022, the Bank began to uncover important information about its historical relationships with Nazis that it described as not having been previously disclosed. Credit Suisse's General Counsel at the time, Romeo Cerutti, who was primarily responsible for hiring Barofsky and Forman and for overseeing the Bank's investigation, acknowledged the importance of these discoveries and the need to press forward.

This collaborative relationship lasted until June 2022, when the Bank underwent a change in leadership over the investigation, replacing Cerutti with a new General Counsel. As detailed below, at first the new leadership confirmed that the scope of the project would remain the same and that oversight of all aspects of the investigation by the Independent Ombudsperson and Advisor would continue unabated. However, within weeks, the new General Counsel directed the Bank to put on "hold" Barofsky and Forman's oversight of the investigation.⁵¹

Over the ensuing months, Credit Suisse provided conflicting messages to the Independent Ombudsperson and Advisor, stating that oversight of at least parts of the engagement would soon be restored, but also, on other occasions, disputing the previously agreed-upon scope of independent oversight and ultimately denying the Ombudsperson and Advisor access to the data necessary for them to conduct oversight. By August 2022, the Bank said it had concluded all of the work it intended to do on the Press Release allegations and had "begun and substantially completed" its work on certain additional topics it had agreed to investigate,⁵² but largely did not

⁵¹ Email from Credit Suisse to Ombudsperson, November 8, 2022.

⁵² Letter from Credit Suisse to Ombudsperson, August 26, 2022.

disclose the results to Barofsky and Forman. In that same correspondence, the Bank also informed the Ombudsperson that it did not intend to do any further work on the other topics it had agreed to investigate.⁵³ By November 2022, Barofsky notified the Bank that given its failure to restore his access to data, he believed that the parties should meet to discuss wrapping up the project.⁵⁴ Days later, Credit Suisse responded by email giving Barofsky formal notice of intent to terminate the Ombudsperson's engagement. Soon thereafter, the Bank sent a similar email to Forman. Accordingly, they were both formally terminated thirty days after such notice was delivered.

This Report provides the Independent Ombudsperson's account of his engagement and his findings as they stood on December 16, 2022—the date that a draft of this Report was first shared with Credit Suisse. This Part of the Report describes the initial communications between Credit Suisse and SWC about SWC's allegations, the retention of Barofsky as the Independent Ombudsperson and Forman as the Independent Advisor, and the scope and nature of their independent oversight. It also discusses Credit Suisse's initial cooperation with the Ombudsperson and SWC, and then its abrupt change of heart in June 2022 once new leadership halted the Ombudsperson's access that it was obligated to provide under the Engagement Letter and its termination of that agreement without finishing the substantive work it said it would do. Finally, it discusses the rationales given by the Bank for its conduct, and the Ombudsperson's response.

A. SWC's Allegations and Credit Suisse's Initial Response

Named after the Holocaust survivor and renowned Nazi hunter Simon Wiesenthal, SWC is a "leading international Jewish human rights organization."⁵⁵ Per its mission statement, SWC

⁵³ *Id.*

⁵⁴ Email from Ombudsperson to Credit Suisse, November 16, 2022.

⁵⁵ The organization is headquartered in Los Angeles with offices around the world, including in Buenos Aires and Jerusalem. *About the SWC*, SWC, <https://www.wiesenthal.com/about/about-the-simon-wiesenthal-center/>.

is focused on confronting antisemitism, defending Jewish persons worldwide, and educating current and future generations on the lessons of the Holocaust.⁵⁶ SWC also “joined forces” in its joint interfaith investigation with a Roman Catholic priest and leading Vatican researcher who has spent decades studying the Holocaust and who, among other things, has served as “a Chargé de mission of the Cardinal of Paris, the Secretary for Jewish Relations for Cardinals, the Secretary for the French Conference of Bishops for Relations with the Jewish Community, and a long-standing Vatican Advisor on relations with Judaism.”⁵⁷

In its Press Release dated March 2, 2020, SWC stated that an investigator had discovered a list of 12,000 names of Nazis who were members of the German labor union in Argentina, Unión Alemana de Gremios (“UAG”), “many of whom had contributed to one or more bank accounts at [SKA, a predecessor Bank of Credit Suisse].”⁵⁸

According to the Press Release, the list of “12,000 Nazis” had been unearthed in a storage room in the former Nazi Party headquarters in Buenos Aires.⁵⁹ Also identified was a list of 1,400 members of the Nazi party in Argentina (“Argentine Nazi Party”). The Press Release further alleged that certain of these accounts were dormant and remained at Credit Suisse, and that Nazi heirs had made claims on them.⁶⁰ SWC therefore requested access to Credit Suisse’s archives to further investigate.⁶¹

In response, Credit Suisse told SWC that it would find out the truth of the allegations and provide its findings to SWC. On March 4, 2020, Cerutti and Lydie Hudson (then Chief Compliance Officer) wrote to SWC, committing to “finding the truth as best we can” and stating

⁵⁶ *Id.*

⁵⁷ Statement of SWC, January 27, 2023.

⁵⁸ Press Release, Mar. 2, 2020.

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ *Id.*

that the Bank was “prepared to investigate the information you have provided to us and lay open—to the extent we are legally permitted—the results.”⁶² They offered to meet with SWC at the Bank’s headquarters in Zurich to “jointly explore how best to find out the facts.”⁶³

On March 19, 2020, SWC accepted Credit Suisse’s invitation to meet on the condition that Credit Suisse was committed to a “full investigation into the Nazi Bank Accounts.”⁶⁴ Due in part to the onset of the COVID-19 pandemic, that in-person meeting never occurred.⁶⁵

In mid-2020, the two parties returned to written correspondence, and their opposing positions began to harden. For its part, Credit Suisse repeatedly⁶⁶ asked SWC to share additional information about its allegations to “get a better understanding of the specific allegations at the earliest opportunity,” asserting the Bank could not “initiate a comprehensive review of the matter at hand without additional relevant information.”⁶⁷ In response, SWC rejected Credit Suisse’s requests, asserting that the Bank already had access to information from its own records of accounts, such as names, dates, and account numbers, that would allow it to investigate the links between Nazi accounts and Credit Suisse.⁶⁸ SWC also stated that the Bank’s refusal to investigate without more information from SWC did not “instill confidence that [Credit Suisse] is prepared to engage in a fulsome review of the evidence in its possession.”⁶⁹

Lawyers for the two parties eventually met in September 2020 in Washington, DC.⁷⁰ At that meeting, SWC’s attorneys provided Credit Suisse’s counsel with information about its

⁶² Letter from Credit Suisse to SWC, March 4, 2020.

⁶³ *Id.*

⁶⁴ Letter from SWC to Credit Suisse, March 19, 2020.

⁶⁵ Email from SWC to Credit Suisse, August 30, 2020.

⁶⁶ Letter from Credit Suisse to SWC, December 4, 2020.

⁶⁷ Email from Credit Suisse to SWC, July 8, 2020.

⁶⁸ Email from SWC to Credit Suisse, July 12, 2020.

⁶⁹ *Id.*

⁷⁰ Email from SWC to Ombudsperson, December 7, 2022.

allegations that were “[s]eparate from, and in addition to, the 12,000 individuals identified [] in the [UAG list],” as set forth in a redacted version of a confidential memorandum summarizing the evidence SWC had collected to date.⁷¹ According to SWC’s counsel,⁷² it shared the following allegations with the Bank at this meeting:

- That there were alleged connections between Credit Suisse and “Nazi Assets,” which included “[d]ormant deposits and holdings of legal entities and shell entities, natural authorized persons, and beneficial owners tracing to Nazi government officials, party members and collaborators.”⁷³
- That Credit Suisse was involved in a series of escape routes for Nazis fleeing prosecution after the war, (commonly known as the Ratlines (the “Ratlines”)), stating that SWC had “developed information establishing that Credit Suisse provided banking services for Nazi governmental organizations operating in Argentina, and, later, for Nazis fleeing to South America in the 1940s and 1950s. [Its] investigation has further uncovered information showing that these accounts covertly are maintained by Credit Suisse today.”⁷⁴
- That “Deutsche Bank’s [Argentine] affiliate...(‘DUB’) acted as a correspondent bank of Credit Suisse....Based on this tight connection, the Nazi Reichsbank used Credit Suisse’s correspondent bank, Deutsche Bank, and its subsidiaries in Argentina...Towards the end of the war, DUB made millions in CHF payments to Nazis...the cash...was then kept by Alfred Kurzmeyer, a Swiss citizen serving as a Deutsche Bank director, at Credit Suisse in [a] safe box”⁷⁵
- That, “[o]ver the course of the war, prominent Nazi families also saw the benefit of diversifying their holdings by setting up trust companies used to transfer assets abroad, including to Argentina. Credit Suisse facilitated these transfers for these Nazi families.”⁷⁶
- That, separate from the list of the 12,000 names, Credit Suisse “has maintained dormant depository accounts/portfolios of Nazi Assets since at least 1942 beneficially owned by [redacted].”⁷⁷ SWC further alleged that

⁷¹ Email from SWC to Ombudsperson, December 7, 2022; Letter from SWC to Credit Suisse, December 15, 2020.

⁷² Email from SWC to Ombudsperson, December 7, 2022.

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ *Id.*

Credit Suisse continued to maintain these dormant accounts for individuals not identified in the UAG list “notwithstanding repeated efforts by heirs and descendants to liquidate the Nazi Assets.”⁷⁸

From Credit Suisse’s perspective, the summary was of limited use, because it was “heavily redacted,” and Credit Suisse’s counsel was not allowed to take notes or make a copy.⁷⁹

This September 2020 meeting was followed by a November 25, 2020 letter in which SWC confirmed that its allegations included Credit Suisse’s “role involving financial transactions of Nazis fleeing prosecution during and after WWII and related individuals and entities in Argentina, Switzerland, Liechtenstein and Italy.”⁸⁰

In December 2020, Credit Suisse’s outside counsel retained the global consulting firm AlixPartners to conduct a forensic review to determine whether any of the individuals named on the UAG list mentioned in the Press Release had Credit Suisse accounts. This review did not encompass other issues and concerns SWC raised with the Bank, such as the Ratlines or lists of specific Nazi individuals and entities identified by SWC, nor did it include all of the issues raised in the Press Release. Instead, AlixPartners undertook a more limited review to determine whether the individuals on the UAG list had accounts at Credit Suisse. Credit Suisse did not at that time inform SWC it had taken this step.

By December 2020, communications between SWC and Credit Suisse reached an impasse as Credit Suisse continued to express that it needed further information from SWC and SWC continued to assert that Credit Suisse already possessed enough information to fully investigate SWC’s allegations.⁸¹

⁷⁸ *Id.*

⁷⁹ Letter from Credit Suisse to SWC, December 4, 2020.

⁸⁰ Letter from SWC to Credit Suisse, November 25, 2020.

⁸¹ Letter from Credit Suisse to SWC, December 4, 2020; Letter from SWC to Credit Suisse, December 15, 2020.

B. The Hiring of the Independent Ombudsperson

Following the breakdown of the communications between Credit Suisse and SWC in December 2020, Credit Suisse's General Counsel Romeo Cerutti made efforts to retain the Independent Ombudsperson and Advisor as part of an apparent effort to break the logjam.

1. The Focus on Independence During the Negotiating Process

In January 2021, Cerutti and Lara Warner, then the Chief Risk Officer of Credit Suisse, formally approached Barofsky about providing independent oversight of the ongoing review that was being conducted by the Bank and AlixPartners. Cerutti and Warner had nearly seven years of experience working with Barofsky from his former role as the Independent Monitor of Credit Suisse AG arising out of its 2014 settlement with the New York State Department of Financial Services ("DFS") and his ongoing role as the Independent Monitor of Credit Suisse Securities (USA) LLC arising out of its 2017 settlement with the United States Department of Justice ("DOJ"). Cerutti cited the importance and relevance of that experience to Barofsky, including his intimate knowledge of the Bank, and expressed that a key purpose of Barofsky's oversight for this matter would be to bring to the project the credibility that he had earned from those previous roles, along with his prior government service at the United States Treasury Department and DOJ. This credibility, Cerutti and Warner suggested, would help ensure that SWC and the public could trust that the work the Bank was doing was being performed properly and completely. Cerutti and Warner also stated that, based on their prior work with Barofsky, they believed that he would approach the project with the same level of rigor and toughness that he had brought to those previous projects, and therefore could give the Bank and its Board assurance that its investigation would leave no stone unturned. They stressed that this was important because the Bank had had to deal with allegations about its ties to Nazis multiple times in the past, and it wanted to be certain

that this investigation would be beyond reproach and not have to be repeated.⁸² In their ensuing discussions, Cerutti expressed that another aim of the engagement was for Barofsky to try to obtain information from SWC, so that any credible allegation could be adequately investigated under Barofsky's oversight.⁸³ Generally speaking, Cerutti explained that Barofsky's role as the Independent Ombudsperson would be to independently oversee the Bank's investigation, test its review process and results, make sure that the investigation covered the necessary lines of inquiry, and provide recommendations on Credit Suisse's response to the findings of AlixPartners.⁸⁴

Barofsky initially demurred, citing his prior and current roles as the monitor of Credit Suisse. In particular, his engagement letter in the ongoing DOJ monitorship made clear that Barofsky could not and would not serve as Credit Suisse's attorney or "represent Credit Suisse in any capacity."⁸⁵

However, Cerutti persisted, citing Barofsky's experience with Credit Suisse and its account record systems as a unique qualification for the role of Ombudsperson. In response, Barofsky made clear that he would only agree to participate in overseeing the Bank's investigation if he was truly independent, in part so there could be no question that he was in any way "representing" the Bank as opposed to overseeing it. This would require the Bank to install a series of necessary safeguards, similar to those included in an independent monitorship agreement, to ensure that his oversight would be effective and independent. Barofsky further explained that he still could not serve in the role if doing so would raise objections from DOJ or DFS. The Bank agreed that it would install such safeguards and guarantee his independence, using the prior monitorship

⁸² January 15, 2021 Call between Ombudsperson and Credit Suisse.

⁸³ May 23, 2021 Call between Ombudsperson and Credit Suisse.

⁸⁴ January 15, 2021 Call between Ombudsperson and Credit Suisse.

⁸⁵ Credit Suisse Settlement with the Department of Justice, January 18, 2017.
<https://www.justice.gov/opa/press-release/file/928521/download>.

agreements as a template for the engagement letter in this matter. With that assurance in hand, Barofsky approached DOJ and DFS, which indicated that they would have no objection to him serving in the role of Ombudsperson with such guardrails in place.

The ensuing discussions between Barofsky and Credit Suisse included assurances that the scope of the investigation would provide Barofsky with sufficient independence. For example, Credit Suisse originally proposed a scope that was limited to overseeing the investigation of the UAG list.⁸⁶ Barofsky rejected this proposal and stressed that such a narrow scope would undermine his independence and fail to satisfy SWC's expectations for the investigation.⁸⁷ Barofsky stated he would not agree to serve in the role without a process to expand the investigation's scope.⁸⁸ He then proposed language for the engagement letter that would provide him with the ability to recommend scope expansions, subject to the Bank's consent.⁸⁹ Cerutti and Credit Suisse's counsel told Barofsky during a February 2021 call that they agreed with this concern and that the Bank's original proposed language represented an overly narrow scope that would make it impossible for independent oversight of the investigation.⁹⁰ Months later, Cerutti sent a revised proposal that adopted the language proposed by Barofsky on scope expansion in its entirety.⁹¹ Also discussed was the need to have an accountability mechanism to ensure that there would be consequences if the Bank were to breach the terms of the Engagement Letter. After additional discussions, the parties agreed that the engagement would require that Barofsky issue a public report, and that the Bank would have no editorial control over it.⁹² This provision was

⁸⁶ February 23, 2021 Call between Ombudsperson and Credit Suisse.

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ Email from Ombudsperson to Credit Suisse, February 24, 2021.

⁹⁰ February 26, 2021 Call between Ombudsperson and Credit Suisse.

⁹¹ Email from Credit Suisse to Ombudsperson, May 28, 2021.

⁹² *See* Engagement Letter at Sec. VI.

drafted in such a manner that Barofsky would be responsible for issuing such a report even if he were terminated by Credit Suisse prior to the completion of the Bank's investigation, ensuring that the Bank could not avoid a negative report simply by terminating him.⁹³

2. Engagement Letter Terms Establishing Independence

The Engagement Letter, executed on June 3, 2021, reflects the intent of both Credit Suisse and Barofsky to establish a structure for the engagement that ensured the Ombudsperson's independence and ability to oversee a complete and thorough investigation of SWC's allegations.

The Engagement Letter included the following key terms:

- The Ombudsperson is not an agent of the Bank, nor would there be an "attorney-client relationship between the Ombudsperson and [Credit Suisse];"⁹⁴
- The Bank and its agents were obligated to cooperate fully with the Ombudsperson and provide his team with reasonable access, including to the Bank's data, information, reports, archives, and personnel;⁹⁵
- The Bank was responsible for paying for the Ombudsperson's work and any experts the Ombudsperson deemed necessary to retain, including a forensic accounting firm, Swiss counsel and historians;⁹⁶
- The Ombudsperson would have the ability to expand the scope of the work as he deemed necessary, with the consultation and agreement of Credit Suisse, and he would oversee those additional efforts that the Bank agreed to undertake;⁹⁷ and
- The Ombudsperson would publish a report on the engagement that "shall" be made public, without editorial control by the Bank.⁹⁸ The Engagement Letter provides a process for the Bank's review and comment on the report

⁹³ The agreement tied the reporting obligation to termination, not completion of the Bank's investigation. The full provision reads: "[a]t or around *the termination of the Engagement* of the Ombudsperson hereunder, the Ombudsperson shall submit to [the Bank] and [the Bank's] Board of Directors a written report detailing his work, including his review and findings during his Engagement, and identifying material recommended improvements, enhancement, and corrective measures []." *Id.* at Sec. VI(a) (emphasis added).

⁹⁴ *Id.* at Sec. II.

⁹⁵ *Id.* at Sec. III.

⁹⁶ *Id.* at Sec. X.

⁹⁷ *Id.* at Sec. I(f); Sec. VII.

⁹⁸ *Id.* at Sec. VI.

both for any factual disagreements the Bank may have as well as for any content the Bank believes is protected from disclosure by Swiss law or applicable legal privileges.

An engagement letter was also executed between Credit Suisse and the Independent Advisor on June 23, 2021.

3. Communications with SWC Concerning Independent Oversight of SWC's Additional Allegations

In letters to SWC following the signing of the engagement letters, Credit Suisse noted the importance of the independence of the Ombudsperson and Advisor to the investigation, and also noted that their oversight would include any investigation into the additional allegations that SWC had put forward should SWC disclose certain evidence to the Bank:

- On June 24, 2021, the Bank wrote to SWC to inform it of the engagement of Barofsky and Forman as the Ombudsperson and Advisor, and described Barofsky's oversight role as overseeing not just AlixPartners' review, but also "any subsequent actions [the Bank] takes" in response to that review.⁹⁹
- Days later, on June 29, 2021, in a meeting between the Bank and SWC, according to notes provided to the Ombudsperson by SWC, SWC once again told the Bank that it considered the proper scope of the investigation to go beyond the allegations of the Press Release, and that SWC's allegations "[did] not center solely around the list of 12,000 names" referenced in the Press Release. Instead, SWC said that its claims against the Bank included that the Bank facilitated the escape of Nazis following the war (including by hiding Nazi assets and procuring travel documents for Nazis), obfuscated the historical reviews of its past Nazi connections (including the prior historical reviews, described in Part II below), managed money for the Nazis (including for some individuals on the Allied blacklist), and intentionally destroyed relevant documents.¹⁰⁰ SWC emphasized that its evidence indicated that the Bank "has profited from hiding Nazi assets."¹⁰¹
- In response to SWC reiterating the breadth of its allegations, Credit Suisse stated that "in [an] effort to find the truth" it had enlisted "Barofsky and Ira

⁹⁹ Letter from Credit Suisse to SWC, June 24, 2021.

¹⁰⁰ June 29, 2021 Meeting between SWC and Credit Suisse; June 30, 2021 Call between Ombudsperson and Credit Suisse.

¹⁰¹ *Id.*

Forman,” and that “[i]n the interest of transparency” the Bank “intend[ed] to share the results of this investigation.”¹⁰² The Bank informed SWC that “to the extent” that SWC had “additional facts,” “Neil Barofsky and Ira Forman are available to you to speak.”¹⁰³ After the Bank again asked SWC to “bring . . . to our attention” any “facts that you think need to be looked at,” SWC expressed concern about sharing information with Credit Suisse, stating that SWC would “have to be naïve [to think the Bank would] use this information to locate records rather than destroy them.”¹⁰⁴ SWC explained that it was also concerned about the need “to protect the individuals who have been willing to cooperate with us” to avoid retaliation, and that it would only participate in a collaborative process if it was “truly independent.”¹⁰⁵

- The Bank promised that when its report was complete, “those documents and that report [would be] turned over to [SWC].”¹⁰⁶ The Bank further stated “We want to work collaboratively with you. The Bank is committed.”¹⁰⁷
- Following the June 2021 meeting, the Bank emailed SWC and repeated that the Bank would “further consider additional information you provide and would seek to have us include in the scope of the review currently underway.”¹⁰⁸ In a call with Barofsky and Forman following this meeting, the Bank summarized the conversation and reiterated that it would consider expanding the scope of its investigation in response to SWC’s concerns.¹⁰⁹ The Bank then asked Barofsky and Forman to contact SWC in order to seek the additional information it needed to so expand the investigation.¹¹⁰
- On July 21, 2021, Credit Suisse put in writing the offer it had made to SWC at its June 29, 2021 meeting. It wrote to SWC and reiterated its offer to collaboratively work with SWC to address the issues raised in the 2020 press release, “as well as any additional issues for which [SWC] provide[s] specific information to [the Bank].”¹¹¹ Among other things, it explicitly invited SWC to engage directly with the Independent Ombudsperson and Advisor,¹¹² explaining that they “were engaged explicitly to ensure that the review [the Bank] now [has] underway is conducted appropriately, and that the concerns for which you have provided specific information to [the Bank]

¹⁰² July 21, 2021 Letter from Credit Suisse to SWC.

¹⁰³ *Id.*

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

¹⁰⁸ Email from Credit Suisse to SWC, June 29, 2021.

¹⁰⁹ June 30, 2021 Call between Ombudsperson and Credit Suisse.

¹¹⁰ *Id.*

¹¹¹ Letter from Credit Suisse to SWC, July 21, 2021 (emphasis added).

¹¹² *Id.*

are thoroughly and transparently addressed. Please know Mr. Barofsky and Mr. Forman are entirely available to you and your team to discuss any issues you may have with the review or any additional information you may choose to share. We urge you to engage with them directly at your earliest convenience.” Credit Suisse also discussed Barofsky’s qualifications for the position, noting that key considerations for the Bank in choosing him were, first, the “depth of his experience and impeccable international reputation,” which was “beyond reproach” and, second that, “because of his previous work on behalf of DFS and his familiarity with our operations . . .” he was “uniquely positioned to be thorough and efficient in his oversight.”¹¹³

As to the manner in which the scope of the investigation could be expanded, in the July 21, 2021 letter, Credit Suisse further stated:

During our June 29 discussion and in its July 2 letter to us, [SWC’s counsel Stein Mitchell] referenced concerns above and beyond those documented in the March 2020 press release. As we have asserted numerous times to you, we welcome the opportunity to better understand the specific nature of your investigation and to use the information you make available to us to consider how we may broaden the scope of our review. If you are unwilling to share this information with us, please consider sharing it with Mr. Barofsky and Mr. Forman, who can keep confidential what is provided to them, but otherwise use it to further direct the work of AlixPartners.¹¹⁴

In other words, Credit Suisse told SWC that if SWC was willing to confidentially share its “information” and “concerns” with Barofsky and Forman, Credit Suisse in turn would, at their direction, expand the scope of the investigations to include the topics identified by SWC. Several months later, SWC took Credit Suisse up on this offer, and Credit Suisse, at least initially, did as it said it would.

C. Expansion and Oversight of the Investigation, Including its Termination by Credit Suisse

Barofsky was formally retained as the Independent Ombudsperson in June 2021. For about a year, Credit Suisse worked collaboratively and cooperatively with the Ombudsperson, providing

¹¹³ *Id.* (emphasis added)

¹¹⁴ *Id.* (emphasis added)

access to Bank documents and personnel, sharing the interim results of its work, and meeting regularly with the Ombudsperson and his team about its review. The Ombudsperson and Advisor's work entailed oversight of Credit Suisse's investigation into the Press Release ("Press Release Investigation") as well as its preliminary efforts to look into the additional information that SWC provided to the Ombudsperson and Advisor ("SWC Leads"), as detailed below.

That work was interrupted in mid-2022, when Credit Suisse announced a change of leadership in which Romeo Cerutti was replaced as General Counsel. Beginning in June 2022, the Bank's new leadership over the investigation "placed a hold on providing and producing to [the Ombudsperson] further data,"¹¹⁵ thereby limiting the access of the Ombudsperson to AlixPartners, Credit Suisse's archives, and other crucial information about the Bank's investigation.

In the subsequent months, Credit Suisse repeatedly assured the Independent Ombudsperson that the Bank would lift that "hold" and restore data access to the Ombudsperson and Advisor. That ultimately did not occur, with Credit Suisse finally notifying the Ombudsperson in November 2022 that it planned to continue withholding documents and information from him. After the Ombudsperson responded by suggesting a meeting in which the parties could discuss how to wind down the engagement, the Bank formally provided a notice of termination of the Ombudsperson engagement by email. Days later, Credit Suisse provided a similar notice of termination to the Advisor.

This section briefly summarizes that history.

1. Credit Suisse's Initial Period of Cooperation

During the first year of the engagement, the Independent Ombudsperson and his team worked to gather and review key documentation from Credit Suisse, public archives, and

¹¹⁵ Email from Credit Suisse to Ombudsperson, November 8, 2022.

secondary sources, met with Credit Suisse and its agents to discuss the progress, process, and strategy of Credit Suisse's investigation, and consulted with other organizations and individuals with relevant knowledge to further inform the investigation. The Ombudsperson and Advisor also interfaced directly with SWC to obtain information and evidence underlying its allegations beyond the scope of the Press Release and sought the Bank's agreement to include those additional matters in its investigation. At no point during this first year did the Bank raise any concerns about the Ombudsperson's performance of his duties or question the scope of the Ombudsperson's engagement.

The Independent Ombudsperson's mandate entailed the need to engage in various simultaneous workstreams aimed at ensuring a thorough review of SWC's allegations. This section summarizes the areas of work the Ombudsperson engaged in before Credit Suisse began shutting that work down.

2. Obtaining the SWC Leads

As noted above, Credit Suisse encouraged the Independent Advisor and Ombudsperson to contact SWC to discuss the manner in which SWC could confidentially provide them information that they could then use to "direct" the expansion of the Bank's investigation. The Ombudsperson and Advisor soon met directly with SWC, and during these discussions the Ombudsperson and Advisor walked through the contractual guarantees of independence that Credit Suisse had provided and discussed their commitment to ensuring that the Bank would fulfill its promise to "thoroughly and transparently"¹¹⁶ investigate any additional and credible leads provided by SWC.¹¹⁷ In these meetings, the Independent Ombudsperson and Advisor stated that up until that

¹¹⁶ Letter from Credit Suisse to SWC, July 21, 2021.

¹¹⁷ August 20, 2021 Call between SWC and Ombudsperson; September 2, 2021 Call between SWC and Ombudsperson; October 8, 2021 Call between SWC and Ombudsperson; October 25, 2021 Meeting

point the Bank had been fully cooperative, and provided, with the Bank's consent, copies of their engagement letters, so that SWC could be assured that if the Bank reversed course and ceased its cooperation, the Ombudsperson and Advisor would publish those breaches in a public report.

SWC made clear that these accountability and confidentiality safeguards were critical in its decision to ultimately share its leads with Barofsky and Forman. After several exchanges and in-person meetings with Barofsky and Forman, SWC expressed an increased willingness to take Credit Suisse up on its offer to share information confidentially with the two of them under a non-disclosure agreement ("NDA") that specified that SWC's information could only be subsequently shared with Credit Suisse with SWC's consent.¹¹⁸ The Ombudsperson communicated that intent to Credit Suisse and the Bank agreed that such an agreement was proper and consistent with the Bank's prior written offer to SWC that if it submitted information confidentially to Barofsky and Forman, the Bank would act on it.¹¹⁹ The agreement was executed, and in October 2021 SWC provided the Ombudsperson and Advisor with access to what it described as a portion of its investigative results.¹²⁰ On November 15, 2021, SWC agreed to permit the Ombudsperson to share some, but not all, of that information with Credit Suisse. SWC did so based on the representations made by the Bank that it would fully investigate the areas for which SWC had provided information and evidence, that it would do under Barofsky and Forman's independent oversight, and with the "expectation that [Credit Suisse would] remove the false premise that the scope [was] limited to SWC's press release and Argentina."¹²¹

between SWC, Ombudsperson, and Advisor; November 12, 2021 Call between SWC, Ombudsperson, and Advisor.

¹¹⁸ Non-Disclosure Agreement between SWC, Ombudsperson, and Advisor, October 22, 2021.

¹¹⁹ Letter from Credit Suisse to SWC, July 21, 2021; Email from Credit Suisse to Ombudsperson and Advisor, September 6, 2021.

¹²⁰ October 25, 2021 Meeting between SWC, Ombudsperson, and Advisor.

¹²¹ Email from SWC to Ombudsperson, November 15, 2021.

The Ombudsperson's team also conducted its own research in tandem with these discussions so that they could evaluate the information provided by SWC. This included reviewing materials from the historical investigations into Credit Suisse's conduct with respect to Nazi Germany and victims of the Holocaust that had been conducted in the 1990s and early 2000s to research whether there were potential gaps or shortcomings that warranted further investigation.

As a result of the Independent Ombudsperson and Advisor's efforts to obtain information from SWC and the Ombudsperson's own supplemental research to evaluate them, the Ombudsperson and Advisor met with Credit Suisse personnel and its advisors on November 17, 2021, to convey those SWC Leads that they were authorized to disclose, share why they believed the Bank needed to conduct additional investigation into them, and provide recommendations concerning how to do so.¹²² As is described further below in this Part, in December 2021 the Bank agreed to expand the scope of its investigation to include those leads, including topics such as the Ratlines, specific Nazis and Nazi entities with potential connections to Credit Suisse, and a reinvestigation of the Nazis and Nazi supporters included on a list of 334 names that SWC sent to the Swiss government in 1997 ("1997 SWC List"), as detailed further in Parts II and III.¹²³

Further detail concerning the SWC Leads, the recommendations to implement them, and the Bank's response to them are set forth in Part III below.

3. Oversight of the Bank's Investigative Work

From June 2021 to June 2022, the Independent Ombudsperson provided robust oversight of all aspects of Credit Suisse's investigation. During this time, the Ombudsperson held frequent

¹²² November 17, 2021 Meeting between Ombudsperson, Advisor, and Credit Suisse.

¹²³ December 14–15, 2021 Meetings between Ombudsperson and Credit Suisse. Credit Suisse also reported that it was further considering whether it could review the UBS and Volcker lists (described in Parts II & III below), as the Bank did not have copies of the lists readily available and needed further information to determine the feasibility of searching for the Nazis that might be on them. *Id.*

meetings with the Bank's team during which AlixPartners and the Bank would present on the methodology and status of their work. The Ombudsperson also set up an oversight infrastructure within the Bank's office space in Zürich comprised of his own staff and consultants who interfaced routinely with the Bank and its team, conducted extensive document review to inform his oversight, and advised AlixPartners on the effectiveness of its forensic review.

The Independent Ombudsperson also submitted hundreds of document requests and reviewed the documents produced by the Bank in response. The Ombudsperson also conducted debriefings of the Bank where needed. Finally, the Ombudsperson made recommendations to Credit Suisse as to how the Bank could improve and ensure thoroughness in its investigative efforts.

Supporting the Independent Ombudsperson's work on this aspect of the engagement was the firm founded by Frances McLeod, Forensic Risk Alliance ("FRA"), an international consulting firm that conducts forensic accounting, investigations, and other data-centric services for large companies.¹²⁴ FRA was well-suited for the engagement, including because McLeod had personally played a leading role in gathering and analyzing client records for another Swiss bank in connection with the investigation of the dormant accounts of Holocaust victims in the late 1990s and early 2000s, as well as on the resulting settlements.¹²⁵ She is also an experienced monitor and is familiar with serving in an independent oversight role.

Further detail concerning the Independent Ombudsperson's oversight of Credit Suisse's investigative work is set forth in Parts III, IV, and V below.

¹²⁴ *Our Story*, FRA Group, <https://www.forensicrisk.com/about/>.

¹²⁵ *Id.* McLeod and FRA were also responsible for the design and implementation of claim evaluation and administration systems for the U.S. \$1.3 billion Swiss Bank Settlement and U.S. \$2.5 billion German Slave Labor Holocaust settlements. *Frances McLeod*, FRA Group, <https://www.forensicrisk.com/about/leadership/frances-mcleod/>.

4. Retaining Historians

The Independent Ombudsperson worked with Credit Suisse to retain historians to assist on the project. From the outset, the Bank stressed the importance and necessity of hiring historians to provide the historical context for the Press Release, assess the allegations from a historical perspective, advise on the scope and methodology of the Bank's investigation, assess the names and individuals who were on the various lists the Bank agreed to investigate after the scope of the investigation was expanded at the end of 2021, and assess the findings of the Bank's investigation.¹²⁶

Initially, in the fall of 2021, Credit Suisse retained a Switzerland-based historian (the "2021 Historian") to begin this work.¹²⁷ The Bank directed the 2021 Historian to conduct research in public archives, the Bank's archives, and other sources to better understand the allegations in the Press Release.¹²⁸ The 2021 Historian's initial findings are discussed further in Part II below.

But the 2021 Historian's work was not sufficient to fulfill the overall need for assistance from historical experts. For one thing, at the time it retained the 2021 Historian, Credit Suisse also acknowledged that an "additional historian from Argentina should be retained for all questions regarding Germans in Argentina."¹²⁹ In addition, the 2021 Historian was only able to work on the investigation for a few months in the fall of 2021, and he could not continue into 2022 due to other commitments. As discussed in Part II, the 2021 Historian's work had focused on the Bank's ties to Argentina during and around World War II, including the outflow of assets from Argentina to Nazi Germany. In December 2021, however, the Bank determined to expand its investigation to

¹²⁶ Credit Suisse Counsel Memorandum, September 8, 2021; Email from Credit Suisse to Ombudsperson and Advisor, September 8, 2021; Meeting between Ombudsperson, Credit Suisse, and Advisor, December 15, 2021

¹²⁷ Credit Suisse Counsel Memorandum, September 8, 2021.

¹²⁸ October 13, 2021 Meeting between Ombudsperson, Credit Suisse, and Advisor.

¹²⁹ *Id.*

cover other topics based on leads provided by SWC, including financial support going *into* Argentina. At the time, Credit Suisse recognized that it needed additional historian support and sought to retain another historian to complete this work.

Credit Suisse informed the Independent Ombudsperson that its efforts to obtain additional historians to support its work were unsuccessful, at least in part, because it could not find a Swiss historian with the necessary expertise and credibility who was willing to work directly for Credit Suisse.¹³⁰ Therefore, the Bank asked the Ombudsperson to attempt to retain an historian to assist with the investigation.¹³¹

The Independent Ombudsperson was able to retain a World War II scholar and contributor and researcher for the Bergier Commission—a Swiss-government sponsored team of researchers formed in 1996 to investigate links between the Nazi regime and Swiss banks discussed in detail in Part II (the “Independent Historian”). The Ombudsperson also brought on board, as an advisor to the Independent Historian, a Switzerland-based university professor with expertise in the subject matter.

As noted, Credit Suisse also stated that it was critical to retain an expert on Argentina to opine on matters of Argentine history, evaluate the UAG and Argentine Nazi Party lists, and conduct further research.¹³² Given the challenges the Bank was facing with retaining a Swiss historian, the Bank also asked the Independent Ombudsperson and Advisor for their help in retaining an expert on Argentina and provided the Ombudsperson with a list of potential

¹³⁰ January 27, 2022 Meeting between Ombudsperson, Advisor, and Credit Suisse. The Independent Ombudsperson understands that Credit Suisse identified a separate historian to assist the Bank in its historical inquiry in Argentina, but did not retain him.

¹³¹ December 14–15, 2021 Meetings between Ombudsperson, Advisor, and Credit Suisse; Email from Credit Suisse to Ombudsperson, January 14, 2022; January 27, 2022 Meeting between Ombudsperson, Advisor, and Credit Suisse.

¹³² Credit Suisse Counsel Memorandum, September 8, 2021.

candidates.¹³³ As described in Part II below, identified on that list was a renowned Argentine author and journalist, with over a decade of experience researching the flight of Nazis to Argentina, with whom the Ombudsperson was able to agree on terms under which he was willing to assist with the investigation. However, as described below, Credit Suisse, notwithstanding a provision in the Engagement Letter that required it to compensate any historian hired by the Ombudsperson, indicated that, with the June 2022 change in leadership over the investigation, it was no longer willing to authorize payment to retain the Argentine expert, leaving unfilled a role that the Bank had previously asserted was vital to its investigation.

D. Credit Suisse's Decision to Shut Down the Independent Ombudsperson's Oversight

By the end of June 2022, Credit Suisse began cutting off the Independent Ombudsperson's ability to conduct oversight. After an initial meeting with the new leadership over the investigation in which the prior expanded scope was confirmed, the Bank put a "hold" on the Ombudsperson's access to data and personnel. Over the ensuing months, Credit Suisse relied on a variety of justifications for its decision to halt oversight, even as the Bank also stated that it would eventually restore the Ombudsperson's access to data.

In November 2022, the Bank confirmed that there would be no restoration of oversight and provided notice of termination to the Independent Ombudsperson, and a few days later, to the Advisor. In a December 2022 closeout meeting with the Ombudsperson and Advisor in which the primary topic of discussion was the preparation of this Report, Markus Diethelm, who had replaced Cerutti as General Counsel in June 2022, requested that the report "acknowledge [his] role" in the Bank's decisions regarding the matter, saying "I took ownership."¹³⁴

¹³³ December 14–15, 2021 Meeting between Ombudsperson, Advisor and Credit Suisse; Email from Credit Suisse to Ombudsperson and Advisor, January 14, 2022.

¹³⁴ December 9, 2022 Meeting between Ombudsperson and Credit Suisse.

This section summarizes the actions of Credit Suisse during this period, as well as the justifications that Credit Suisse provided for the decision to terminate the engagement, along with the Independent Ombudsperson's responses.

1. Credit Suisse's Actions to Shut Down the Engagement

On June 15, 2022, Credit Suisse reaffirmed its cooperation with the Independent Ombudsperson and Advisor and its commitment to continue work on the same expanded scope that the Bank had agreed was necessary in December 2021. On that day, Cerutti's replacement in overseeing the investigation joined a previously scheduled meeting at which various aspects of the ongoing work were discussed:

- The meeting was focused on the expanded investigation into the SWC Leads that went beyond the original allegations of the Press Release. The meeting was originally scheduled so that Credit Suisse could give a presentation to the Ombudsperson's newly onboarded historians on the progress the Bank had made investigating these expanded areas, and its plans going forward.¹³⁵ The meeting included a discussion of how the Independent Historian could leverage his experience of having already worked in the Bank's archives as a researcher for the Bergier Commission to make the review of the Bank's archives more meaningful and efficient in pursuing those leads.¹³⁶
- Credit Suisse reconfirmed that the investigation's scope included and was now focused on the components of the investigation into the SWC Leads, including the 1997 SWC List, Ratlines, specific Nazi individuals with accounts at Credit Suisse, Nazi-affiliated entities, and the Bank's involvement in laundering Nazi assets, all of which were based on evidence and information provided by SWC.¹³⁷
- As discussed in greater detail in Part III, Credit Suisse presented on select preliminary findings of its investigation of the SWC Leads, including the Bank's efforts to help a Nazi businessperson restructure the individual's company to avoid seizure; and the discovery of an account that was controlled by a senior SS official who also served as a representative of the SS-owned company Deutsche Wirtschaftsbetriebe GmbH ("DWB") and which potentially called into question the general accuracy and candor of

¹³⁵ Email from Credit Suisse to Ombudsperson, May 12, 2022.

¹³⁶ June 15, 2022 Meeting between Ombudsperson, Advisor, and Credit Suisse.

¹³⁷ *Id.*

the Bank's prior representations to the Bergier Commission.¹³⁸

- Credit Suisse presented on its work with the UAG list, described in Part V below, which helped provide the historians with an understanding of the forensic platform that had been built by AlixPartners and the limitations that resulted from the Bank's destruction of documents over the years, as described in Part IV below.¹³⁹

During the meeting, there was no indication that the recent change in leadership would impact the Bank's plans to continue to fulfill its prior assurances to SWC that it would conduct a thorough and transparent investigation. No one from Credit Suisse or its advisors contended that the Bank had not agreed to investigate these areas of inquiry, or that any aspect of the Bank's investigation was outside the scope of the Independent Ombudsperson's oversight, as the Bank would later argue. No one said that the Ombudsperson or the historians would be denied access to the Bank's archives or records, as would later occur. Nor would any such assertion have made any sense, as the entire purpose of the meeting was to prepare the Ombudsperson's historians to begin their archival research into the SWC Leads, by providing them with an overview of what had been done and what the plan was going forward.¹⁴⁰ In short, during the meeting it appeared as if the investigation would proceed as Credit Suisse had previously agreed to.¹⁴¹

At the meeting, Credit Suisse discussed potential next steps. First, the Bank's new leadership over the investigation expressed a desire to conduct a meeting with SWC in the early fall and wanted to have results to deliver to SWC at that meeting.¹⁴² To that end, it was suggested that the Bank first conduct a pilot review of the Ratlines using a sample of the lists of names that had been compiled by the Bank and the Ombudsperson instead of reviewing all of the names at

¹³⁸ *Id.*

¹³⁹ *Id.*

¹⁴⁰ Emails between Ombudsperson and Credit Suisse, May 24, 2022; Agenda for June 15, 2022 Zürich Meetings.

¹⁴¹ June 15, 2022 Meeting between Ombudsperson, Credit Suisse, and Advisor.

¹⁴² *Id.*

once. Second, it was suggested that instead of AlixPartners incurring the cost of preparing a final report, it simply provide all of its data and conclusions to the Ombudsperson who could then include them in his report. The Ombudsperson agreed to work with the Credit Suisse team to further develop their new proposals, and the meeting concluded with every indication that the positive working relationship between the parties would continue.¹⁴³

However, as described further below, shortly after the June 2022 meeting, the Bank took a series of steps that interfered with the Ombudsperson's ability to fulfill his role, including by denying the Ombudsperson access to the Bank's data, by attempting to restrict the subject matter of the Ombudsperson's oversight, and by refusing the Ombudsperson access to other necessary resources and making extraordinary demands. Although these restrictions increased over time, their trajectory was not linear. Credit Suisse alternated between making new objections and demands, on the one hand, and promising to restore access and reconfirming the Independent Ombudsperson's and Advisor's independent oversight role, on the other.

a. The Bank's Denial of Data Access

Starting in June 2022, the Bank denied the Ombudsperson access to data that he needed to fulfill his oversight role. In the following months, as the Independent Ombudsperson repeatedly objected to Credit Suisse's refusal to give him access to data, the Bank delivered contradictory messages on restoring the Ombudsperson's access to data and other information and personnel needed to carry out his oversight:¹⁴⁴

- In an email on June 29, 2022, the Independent Ombudsperson first noted the issue of access, telling the Bank that "the Bank has essentially halted the flow of information to us pending [the] adoption [of an AlixPartners workplan that the Bank had ordered], including getting updates on the 1997 SWC List pilot and even scheduling a meeting with the archivist," and asked

¹⁴³ *Id.*

¹⁴⁴ August 8, 2022 Call between Credit Suisse and Ombudsperson; September 22, 2022 Call between Credit Suisse and Ombudsperson.

for clarification from the Bank.¹⁴⁵

- In an email on June 30, 2022, a Bank employee responded by stating that the Bank had “been asked to take stock” and asked the Ombudsperson to wait until the Bank completed its own workplan and budget.¹⁴⁶
- During a call on August 8, 2022, between a Bank employee and a member of the Ombudsperson’s team, the Bank acknowledged that the Independent Ombudsperson needed a “refresh” of the current data.¹⁴⁷
- During a meeting on August 18, 2022, the Bank again promised to give the Independent Ombudsperson a “refresh” of data from AlixPartners, and the Ombudsperson reiterated his need for access to AlixPartners’ findings in order to finish his work; the Bank assured the Ombudsperson that it would provide him with AlixPartners’ findings “as soon as possible.”¹⁴⁸
- In a letter dated August 26, 2022, the Bank conditioned the restoration of access on a series of demands such as providing a detailed budget for the rest of the Ombudsperson’s work; it also stated that the Bank did not “currently . . . contemplate” releasing the Ombudsperson’s final report to the public and requested that the Ombudsperson disclose his confidential communications with SWC to the Bank, a step that would likely violate the NDA between SWC and the Ombudsperson.
- In a letter on September 6, 2022, the Independent Ombudsperson emphasized that the Engagement Letter prohibited restrictions on data access and reiterated his request to restore access and stated that he would be willing to further discuss all of the conditions cited in the Bank’s August 26, 2022 letter once the Bank restored access.¹⁴⁹
- On an October 20, 2022 call, the Bank pledged to restore partial data access to the Ombudsperson’s team, stating that it was “perfectly happy to restore data [regarding the] press release.” The Bank also confirmed that it had stated that “of course” the Ombudsperson could have “all access [he] need[ed] to do the work [he] need[ed].”¹⁵⁰
- In a letter on November 8, 2022, the Bank stated that further work by the Ombudsperson was “not necessary.”¹⁵¹

¹⁴⁵ Email from Ombudsperson to Credit Suisse, June 29, 2022.

¹⁴⁶ Email from Credit Suisse to Ombudsperson, June 30, 2022.

¹⁴⁷ August 8, 2022 Call between Credit Suisse and Ombudsperson.

¹⁴⁸ August 18, 2022 Meeting between Credit Suisse and Ombudsperson.

¹⁴⁹ Letter from Ombudsperson to Credit Suisse, September 6, 2022.

¹⁵⁰ October 20, 2022 Meeting between Credit Suisse, Ombudsperson, and Advisor.

¹⁵¹ Email from Credit Suisse to Ombudsperson, November 8, 2022.

Ultimately, the Bank never restored the Ombudsperson's or Advisor's access to relevant documents and information prior to their termination.

b. The Bank's Efforts to Restrict the Scope of the Ombudsperson's Oversight

At times, the Bank justified its failure to provide the Ombudsperson with access to data and its efforts to curtail his investigation by claiming that the Ombudsperson's oversight simply did not extend to the investigation of certain topics. However, at other times the Bank agreed that those same topics were within the Ombudsperson's scope and discussed the Ombudsperson's oversight of them.

By way of limited example, the Bank changed positions several times on the role of the Ombudsperson in overseeing the investigation of whether the Bank had accounts for individuals on the 1997 SWC List of some of the most notorious and high-ranking Nazis:

- In a July 13, 2022 letter and a July 20, 2022 follow-up meeting with the Ombudsperson, the Bank stated that the Ombudsperson's scope did not include an investigation of whether the Bank had accounts for those on the 1997 SWC List, because the Bank now claimed that Barofsky and Forman's oversight was limited to the Press Release.¹⁵² Despite that assertion, however, the Bank also acknowledged that the Ombudsperson's work had "evolved beyond" the Press Release and "had started to cover" other topics including the 1997 SWC List.¹⁵³
- At an August 18, 2022 meeting with the Ombudsperson, the Bank agreed that the Ombudsperson's oversight included the 1997 SWC List review and agreed to provide AlixPartners' findings to the Ombudsperson.¹⁵⁴
- In a follow-up letter on August 26, 2022, Credit Suisse stated that AlixPartners had "completed its review of the SWC list" and reaffirmed that it would share AlixPartners' findings on the 1997 SWC List with the Ombudsperson (which it did not), but then also proposed the Ombudsperson would review a "limited sample" of the results, which

¹⁵² Letter from Credit Suisse to Ombudsperson, July 13, 2022; July 20, 2022 Meeting between Credit Suisse, Ombudsperson, and Advisor.

¹⁵³ Letter from Credit Suisse to Ombudsperson, July 13, 2022.

¹⁵⁴ August 18, 2022 Meeting between Credit Suisse, Ombudsperson, and Advisor.

included an undisclosed number of new Nazi accounts found in that investigation.¹⁵⁵

In a November 8, 2022 email to the Ombudsperson, the Bank returned to the claim it made in July, stating that oversight of the 1997 SWC List review was “beyond the scope of [the Ombudsperson’s] engagement . . . [and thus] we do not believe that any further work by your team is necessary.”¹⁵⁶

As another example, Credit Suisse also changed its position with respect to investigating the Ratlines. As noted above, investigating the Ratlines was one of the core topics that SWC had pressed the Bank to investigate since at least 2020; the Bank agreed to include the Ratlines in its investigation under independent oversight in December 2021. After that agreement was in place, the Independent Ombudsperson worked with the Bank to identify a list of 366 names for that forensic review, which, of course, was a small fraction of the tens of thousands of names and name variants that the Bank had already run as part of the Press Release review, as discussed further in Part V below. Following the change in leadership at Credit Suisse in June 2022, the Bank proposed to conduct a pilot review of only a sample of the names to determine whether further review was necessary. Later, in August 2022, it proposed to the Ombudsperson that it would start that review with an agreed upon sample of 30-40 of those names.¹⁵⁷ Then, the Bank subsequently decided to conduct no review of the Ratlines,¹⁵⁸ and claimed that it had never agreed to expand the scope of its investigation under the Engagement Letter to do so.¹⁵⁹

¹⁵⁵ Letter from Credit Suisse to Ombudsperson, August 26, 2022.

¹⁵⁶ Email from Credit Suisse to Ombudsperson, November 8, 2022.

¹⁵⁷ June 15, 2022 Meeting between Credit Suisse, Ombudsperson, and Advisor; July 20, 2022 Meeting between Credit Suisse, Ombudsperson, and Advisor; August 18, 2022 Meeting between Credit Suisse and Ombudsperson.

¹⁵⁸ Email from Credit Suisse to Ombudsperson, November 8, 2022.

¹⁵⁹ Letter from Credit Suisse to Ombudsperson, August 3, 2022; Letter from Credit Suisse to Ombudsperson, August 26, 2022.

c. The Bank's Other Actions to Restrict Independent Oversight

In addition to the Bank's failure to grant the Ombudsperson access to data, the Bank took additional steps that impeded the Ombudsperson's ability to fulfill his role. Through a series of letters and meetings in the summer of 2022, Credit Suisse, took the following steps:

- Refused to agree to fund the engagement of an Argentine expert, who had previously been identified at Credit Suisse's request;¹⁶⁰
- Refused to provide the Independent Historian with access to Bank data and archives;¹⁶¹
- Refused to allow the Ombudsperson to meet with AlixPartners or ask AlixPartners questions about its methodology or results;¹⁶²
- Called on the Ombudsperson to disclose to Credit Suisse communications with SWC that were covered by the NDA that the Bank knew had been executed between SWC and the Ombudsperson;¹⁶³ and
- Interfered with the privilege of the Ombudsperson and the explicit terms of the Engagement Letter by blocking the Ombudsperson's ability to share his team's work product with his Swiss counsel without first showing it to the Bank and by refusing to allow the Ombudsperson the ability to retain his work product at the termination of the engagement.¹⁶⁴

d. Termination of the Engagement

Based on all the foregoing course of conduct, on November 16, 2022, the Independent Ombudsperson wrote to the Bank to state that it had become clear that it had no intention of following through with its prior statements that it would restore access to data.¹⁶⁵ In the email, the Ombudsperson suggested an in-person meeting to discuss "the steps necessary to bring the engagement to as amicable a conclusion as possible."¹⁶⁶

¹⁶⁰ August 18, 2022 Meeting between Credit Suisse and Ombudsperson.

¹⁶¹ Email from Credit Suisse to Ombudsperson, June 30, 2022.

¹⁶² Email from Credit Suisse to Ombudsperson, June 29, 2022; August 8, 2022 Call between Credit Suisse and Ombudsperson.

¹⁶³ *Id.*

¹⁶⁴ Letter from Credit Suisse to Ombudsperson, August 26, 2022.

¹⁶⁵ Email from Ombudsperson to Credit Suisse, November 16, 2022.

¹⁶⁶ *Id.*

On November 18, 2022, Credit Suisse responded by formally providing notice of termination to the Independent Ombudsperson effective December 18, 2022.¹⁶⁷ On November 24, 2022, Credit Suisse provided a similar notice of termination to the Independent Advisor effective December 24, 2022.¹⁶⁸

2. Credit Suisse's Proffered Justifications for Termination

When Credit Suisse terminated the Independent Ombudsperson's engagement, the Bank provided several reasons for ceasing oversight. As detailed below, each is without support and belied by the record developed in this matter.

a. Credit Suisse's Position on Scope

Credit Suisse has taken the position that the Independent Ombudsperson's oversight role was never expanded beyond the allegations in the Press Release, and that under the Engagement Letter, such expansion was prohibited.¹⁶⁹ The Bank therefore asserted that, although Credit Suisse might choose to continue investigating some of the SWC Leads provided by the Ombudsperson, any such investigation would be carried out separate from, and without the input or oversight of, the Ombudsperson or Advisor.¹⁷⁰ Credit Suisse's position was unsupported by the Engagement Letter, its negotiation history, and the representations made and actions taken by the Bank. Its position was also directly contradicted by the Bank's leadership team itself, as detailed below.

First, Credit Suisse's position that the Engagement Letter *prohibits* expansion of the scope of the agreement is inconsistent with the purpose and plain text of the letter itself, which explicitly contemplated the expansion of scope that later occurred with respect to the SWC Leads. As

¹⁶⁷ Email from Credit Suisse to Ombudsperson, November 18, 2022.

¹⁶⁸ Email from Credit Suisse to Advisor, November 24, 2022.

¹⁶⁹ Letter from Credit Suisse to Ombudsperson, August 3, 2022.

¹⁷⁰ Letter from Credit Suisse to Ombudsperson, August 3, 2022; Email from Credit Suisse to Ombudsperson, November 8, 2022.

detailed further above, the Engagement Letter plainly states in Paragraph I(f) that the scope of the Ombudsperson's oversight would include "[a]ny additional efforts that may be deemed necessary by the Ombuds[person] during the course of his review, upon consultation and agreement by [Credit Suisse]." ¹⁷¹ The negotiation history of this language in the Engagement Letter, detailed above, makes clear the importance to the Ombudsperson of the inclusion of this "additional efforts" language so that the scope of the investigation could be expanded.

Specifically, this language, which was drafted by the Independent Ombudsperson and accepted by Credit Suisse, was discussed as being necessary to ensure his independence. As discussed above, the parties specifically discussed that the Ombudsperson believed that he had to have the ability to expand the scope of the investigation to other areas if he believed that newly found evidence emerged that would make such expansion necessary in light of the purpose of the engagement. The Bank, in turn, wanted to retain the ability to refuse to agree to such an expansion if it believed it to be without merit. Barofsky thus agreed to set a higher threshold for making such a finding beyond a mere recommendation (necessity), and to allow the Bank to choose to refuse to consent to such an expansion. Cerutti, in turn, understood that under the terms of the Engagement Letter, if the Bank were to deny its consent, then Barofsky could include in his public report a criticism of the Bank's refusal to investigate facts that he had deemed to be "necessary," a scenario that both parties agreed they wanted to avoid.

Credit Suisse nonetheless now asserts that Paragraph I(f) is limited to expansions of scope relating only to the Press Release Investigation, and that the Engagement Letter therefore forbids expansion of scope beyond that, even upon agreement of the parties. ¹⁷² But the contract already contains a separate provision, with a lower threshold for when the Ombudsperson wanted to

¹⁷¹ Engagement Letter at Sec. I(f).

¹⁷² Letter from Credit Suisse to Ombudsperson, August 3, 2022.

address expanding the scope of the Press Release Investigation. Specifically, Paragraph I(a) says that if the Ombudsperson sought to change the “scope” of the investigation into “the allegations made in the March 2, 2020 press release issued by the SWC,” he would do so by simply making a “recommendation[.]”¹⁷³ Even in the absence of the negotiating history of the provision discussed above, it would make little sense to conclude that the parties intended to have two entirely different provisions in the same part of the same agreement dealing with the same issue—expanding the scope of *only* the Press Release Investigation.

Second, Credit Suisse’s argument that it never agreed to expand the scope of the investigation with Ombudsperson oversight is starkly inconsistent with the assurances it gave to SWC, both directly and through the Ombudsperson, in order to obtain information from SWC regarding its investigation into the Bank’s Nazi ties. As described in detail above, the Bank informed the Ombudsperson that one of the purposes of his engagement was to obtain from SWC the information and evidence that it said it had about the Bank’s Nazi ties. Soon after the Bank engaged Barofsky, it wrote to SWC informing them of the hire.¹⁷⁴ SWC reported that it told the Bank in a subsequent meeting that it would only provide information to a “truly independent” investigator because it was concerned that if it provided information directly to the Bank, the Bank would use it to destroy documents and retaliate against SWC sources.¹⁷⁵

After the meeting, the Bank confirmed in a written letter that SWC had informed the Bank that it had concerns of the Bank’s Nazi ties that went “above and beyond” the Press Release and, in response, asked SWC to “please consider sharing [it] with Mr. Barofsky and Mr. Forman, who can keep confidential what is provided to them, but otherwise use it to further direct the work of

¹⁷³ Engagement Letter at Sec. I(a).

¹⁷⁴ Letter from Credit Suisse to SWC, June 24, 2021.

¹⁷⁵ June 29, 2021 Meeting between Credit Suisse and SWC.

AlixPartners.”¹⁷⁶ SWC has now made it clear that it only shared its leads after the Bank offered Barofsky and Forman as “guardrails,” to ensure that SWC’s sources would be protected and the Bank would not “destroy evidence.”¹⁷⁷ Having obtained SWC’s evidence and leads based on assurances that they would be investigated with Barofsky and Forman’s oversight, the Bank is now asserting that it has no obligation to do so. This is completely inconsistent with the Bank’s statement to SWC just weeks after engaging Barofsky and Forman that the two would be “direct[ing]” such an expanded investigation in accordance with those leads.¹⁷⁸

Third, Credit Suisse’s position is inconsistent with its communication to both the Independent Ombudsperson and via the Ombudsperson to SWC that its Executive Board had agreed to expand the scope of the engagement to include the leads SWC had shared for that express purpose.¹⁷⁹ This included an in-person meeting dedicated to the topic at which the Bank shared a presentation it prepared entitled “Project Arthur: Suggested Scope Changes – Approach for Discussion.” Indeed, the invitation to the meeting was titled “Update on CSG ExB [Credit Suisse Group Executive Board] Outcome, Scope discussion” and included the following description of the meeting: “[b]riefing re determinations by CSG Executive Board on Dec. 7, 2021, and related implementation and planning discussion.”¹⁸⁰ Moreover, the Ombudsperson also repeatedly discussed the expanded scope of the investigation with Executive Board member Romeo Cerutti. Finally, the Ombudsperson informed the Bank that he planned to communicate the Executive Board’s approval of the expanded scope to SWC, asked for any objections, and subsequently

¹⁷⁶ Letter from Credit Suisse to SWC, July 21, 2021.

¹⁷⁷ December 14, 2022 Call between SWC and Ombudsperson.

¹⁷⁸ Letter from Credit Suisse to SWC, July 21, 2021.

¹⁷⁹ Letter from Credit Suisse to Ombudsperson, July 21, 2021.

¹⁸⁰ Email from Credit Suisse to Ombudsperson, December 15, 2021.

informed SWC of the Executive Board's approval after receiving no objections from the Bank.¹⁸¹

For its part, and in reliance on the Bank's promise to "fully address the SWC's findings," SWC stated that it pledged its "cooperation, non-disclosure of the investigation, and forbearance from seeking accountability in other forums pending the outcome."¹⁸²

Fourth, Credit Suisse's course of conduct in cooperation with the Independent Ombudsperson and Advisor also demonstrates its agreement to carry out that expanded scope. As detailed above, after the Bank communicated the Executive Board's approval of the expanded scope, Credit Suisse's project team engaged with the Ombudsperson over several months regarding the scope expansion, including multiple presentations by the Bank to the Ombudsperson regarding initial findings of its investigation of the SWC Leads, including the June 15, 2022 presentation to the Ombudsperson's historians detailed above. This included written proposals from the Bank in February 2022 in which the Bank proposed to "shift available resources" from the Press Release Investigation and into the agreed upon reviews of the 1997 SWC List and Ratlines "in order to achieve faster, more meaningful results" and sought input and approval from the Ombudsperson on this plan for review.¹⁸³ These proposals sought to "initiate the review of the [1997] SWC List," while soliciting "input from [the] Ombudsperson team,"¹⁸⁴ and "develop a jointly defined" list with the Ombudsperson of names for the Ratlines.¹⁸⁵ The proposals further call for a discussion of a "detailed review and investigation process to be defined with

¹⁸¹ December 14–15, 2021 Meeting between Ombudsperson and Credit Suisse; December 17, 2021 Call between Ombudsperson and SWC.

¹⁸² Statement of SWC, January 27, 2023.

¹⁸³ Proposed Priority Review Approach Until Summer, February 25, 2022; Project Arthur Suggested Priority Review Workplan, February 25, 2022.

¹⁸⁴ Proposed Priority Review Approach Until Summer, February 25, 2022; Project Arthur Suggested Priority Review Workplan, February 25, 2022.

¹⁸⁵ Proposed Priority Review Approach Until Summer, February 25, 2022.

Ombudsperson.”¹⁸⁶ Likewise, when the Ombudsperson sent Credit Suisse names of Ratlines participants and facilitators to include on the list to search for accounts at the Bank, the Bank’s response was “many thanks for the list wit[h] the additional names. We will review with the team and revert with any questions or comments.”¹⁸⁷ These documents cannot be squared with the Bank’s recent claim that these parts of the investigation were outside of the Ombudsperson’s scope and oversight.

Finally, in a July 2022 meeting with the Ombudsperson and Advisor, two members of the Bank leadership team explicitly acknowledged that the scope of the investigation and the oversight of the Ombudsperson and Advisor had been expanded, and described its subsequent attempts to curtail that expansion as an attempt to “retrade[]” that commitment.¹⁸⁸

b. Credit Suisse’s Limitation of Independent Oversight of the Press Release Investigation

The Bank has acknowledged that the investigation of the allegations in the Press Release was within the scope of the engagement, but it halted that oversight too, claiming “the little remaining material/data that [the Ombudsperson has] not seen is consistent with the research [the Ombudsperson has] already reviewed and that, very importantly, according to AlixPartners, review of that information would not alter their conclusion that the Argentine list does not substantiate the allegations raised by the SWC. Accordingly, it is [the Bank’s] view that further follow-up work by [the Ombudsperson’s] team is not necessary.”¹⁸⁹ In other words, the Bank unilaterally determined that its investigation of the Press Release allegations was sufficient and therefore no input from the Ombudsperson was necessary.

¹⁸⁶ Project Arthur Suggest Priority Review Workplan, February 25, 2022.

¹⁸⁷ Email from Credit Suisse to Ombudsperson, April 6, 2022.

¹⁸⁸ July 20, 2022 Meeting between Credit Suisse, Ombudsperson, and Advisor.

¹⁸⁹ Letter from Credit Suisse to Ombudsperson, November 8, 2022.

That position miscomprehends the concept of independent oversight.¹⁹⁰ It is axiomatic that oversight cannot be independent or effective if the entity being overseen can unilaterally terminate it whenever it feels that it has conducted a satisfactory inquiry. Consistent with this basic principle of oversight, the Independent Ombudsperson insisted upon robust contractual guarantees of unconditional, full, and complete access to Credit Suisse’s data in his Engagement Letter, and without such access he never would have agreed to the engagement. Among other things:

- The Engagement Letter in multiple places requires that Credit Suisse take “all reasonable steps to cooperate fully with the Ombudsperson,”¹⁹¹ including by providing “reasonable access to all relevant personnel . . . as well as records, documents, reports, . . . systems . . . and all applicable software and hardware, as needed by the Ombudsperson to perform his duties.”¹⁹²
- The Engagement Letter explicitly places this obligation on senior executives, commanding that Credit Suisse’s “executives, directors and officers shall instruct their employees to cooperate fully with the Ombudsperson,” including by providing him with access to all data and records;¹⁹³
- The Engagement Letter extends the obligation to the work of AlixPartners, requiring Credit Suisse to ensure that all of its “relevant vendors, consultants, agents, auditors, and other third parties, cooperate fully . . . and provide the Ombudsperson with access to all relevant personnel, records, documents, reports, systems, software and hardware, or other information that the Ombudsperson may seek in the performance of [his] duties hereunder,”¹⁹⁴ which expressly includes the duty to “[r]eview and comment on the investigative reports of the CSAG Agents to verify that they are a fair and accurate description of their work and their findings.”¹⁹⁵

In sum, after repeatedly guaranteeing independent oversight to SWC, including by stating

¹⁹⁰ After receiving a draft of this Report, the Bank informed the Ombudsperson that it was seeking to hire a new ombudsperson in apparent contradiction of the Bank’s previous assertions that this matter had been sufficiently investigated and there was no need for further independent oversight. Letter from Credit Suisse to Ombudsperson, January 25, 2023.

¹⁹¹ Engagement Letter at Sec. III.

¹⁹² *Id.*

¹⁹³ *Id.*

¹⁹⁴ *Id.*

¹⁹⁵ *Id.* at Sec. I(c).

in a July 2021 letter that Barofsky and Forman “were engaged explicitly to ensure that the review [the Bank] now [has] underway is conducted appropriately,”¹⁹⁶ and entering into a contractual agreement with Barofsky to provide that oversight, the Bank has not complied with these terms. More details regarding the amount of work that the Bank left undone when it terminated the Ombudsperson’s oversight of the Press Release Investigation, the information that it never provided, and the impact on the integrity of the investigation as a result of that decision, are discussed further in Part V below.

c. Credit Suisse’s Claim that Past Investigations Satisfy Its Obligations

Credit Suisse has also asserted that it need not fulfill its commitment to SWC to cooperate fully with Barofsky and Forman because the past historical investigations of the 1990s were a sufficient proxy for investigating the allegations now being made by SWC.¹⁹⁷ This argument fails to appreciate the limitations of those prior efforts.

In the early part of this engagement, Credit Suisse’s leadership team understood that despite the significant work those prior investigations performed, they did not fully address—and were not intended to address—the allegations raised by SWC that resulted in the commencement and expansion of the current investigation. This was self-evident, as none of the investigations in the 1990s fully addressed the issue of the Bank’s connections to Nazi-affiliated individuals or entities in Argentina, including the role of the Ratlines, a focus of SWC’s allegations.

The limitations of these reviews were also pointed out to the Bank by SWC, which brought veterans of those investigations to a June 2021 meeting with the Bank. For example, according to

¹⁹⁶ Letter from Credit Suisse to SWC, July 21, 2021.

¹⁹⁷ Letter from Credit Suisse to Ombudsperson, July 13, 2022; August 18, 2022 Call between Credit Suisse and Ombudsperson; Letter from Credit Suisse to Ombudsperson, August 26, 2022; Email from Credit Suisse to Ombudsperson, November 8, 2022.

SWC, during that meeting an economist who—among other things—worked on two of the major investigations of the 1990s (the Volcker Commission and Bergier Commission, both described in Part II below), explained to Credit Suisse the inapplicability of those efforts to the more comprehensive investigation that SWC was encouraging the Bank to conduct into what became the SWC Leads. The economist explained that “while some questions were brought to limited closure [by the prior investigations], the important question of the size and flow of assets owned by Nazis and Nazi collaborators into or via Switzerland has not even begun to be resolved,” because “[t]he Volcker Committee’s primary focus was on the fate of Holocaust victims’ accounts in Swiss banks,” and the Bergier Commission “felt stymied in its efforts to do much more than, on basis of important case studies, to confirm the general importance of this issue.”¹⁹⁸

As to the Bank’s own historical investigation, also described below, SWC expressed severe misgivings as to the adequacy of the Bank’s prior efforts, stating at that same meeting that Credit Suisse “never satisfied their obligation to comprehensively inventory the Nazi assets held in the banks. In your bank. It was simply never done,” and that “since 1945, your bank had an obligation to investigate and identify all of the assets held on behalf of Nazis. And Credit Suisse did not do it.”¹⁹⁹ In response, both at that meeting and in a letter that followed it, Credit Suisse assured SWC that it would take additional steps to expand its current investigation, and not simply rely on what it had done in the past, stating that it “welcome[d] the opportunity to better understand the specific nature of [SWC’s] investigation and to use the information [SWC] make[s] available to [the Bank] to consider how [the Bank] may broaden the scope of [its] review”—an invitation SWC eventually accepted by sharing the information SWC had obtained with the Independent Ombudsperson and

¹⁹⁸ June 29, 2021 Meeting between SWC and Credit Suisse.

¹⁹⁹ *Id.*

the Bank, as described above.²⁰⁰ And to its credit, as discussed above, the Bank lived up to the commitment it made to go beyond those reviews in December 2021, when it explicitly agreed to apply the full modern forensic platform that it had established with AlixPartners and overseen by the Ombudsperson and Advisor to re-examine and verify the work that its historian had previously done. Additional limitations of each of those previous reviews are further detailed in Part II below.

Moreover, the subsequent investigation that the Bank conducted demonstrated that the prior reviews were, in fact, not sufficient to meet SWC's concerns. The newly found evidence detailed in Parts II and III below—some of which was provided by SWC, some found by the Bank during its investigation, and some uncovered by the Independent Ombudsperson—confirms the need for the Bank to go beyond those historical efforts and correct the errors it had made in connection with them. Given that the forensic platform had already been used to investigate tens of thousands of names and name variants in connection with the SWC Press Release Investigation, as discussed further in Part V, the 460 names on the SWC and Nuremberg Lists seemed to be a modest task for the Bank to undertake, relative to the work already undertaken.

d. Credit Suisse's Other Reasons for Terminating Its Investigations

In addition to the reasons above, Credit Suisse has taken a variety of other positions to explain its decision to terminate its investigation and its oversight. These too are unsupported.

First, the Bank has claimed that, with respect to an investigation of the Ratlines, Credit Suisse did not need to perform an investigation at all, because “no credible connection to Credit Suisse or its predecessors [had] been presented.”²⁰¹ But, as discussed above, the Bank already had agreed that such an expansion was necessary in December 2021 when it agreed to investigate the

²⁰⁰ June 29, 2021 Meeting between SWC and Credit Suisse; July 21, 2021 Letter from Credit Suisse to SWC.

²⁰¹ Email from Credit Suisse to Ombudsperson, November 8, 2022.

Ratlines. That determination of necessity occurred after the Ombudsperson had confidentially received information and evidence from SWC that tied Credit Suisse to Ratlines participants. Moreover, as discussed in Parts III and V below, additional credible evidence connecting Credit Suisse to the Ratlines has been developed since December 2021, including from a review of external records and other evidence derived from the Bank's investigation. The Ombudsperson informed Credit Suisse of the existence of such credible evidence in an August 16, 2022 letter in which he informed the Bank that SWC had developed evidence of additional Ratlines connections and would share this information if the Bank would recommit to its promises, including that the review be conducted with Barofsky's oversight.²⁰² The Bank did not respond to this offer.

Second, Credit Suisse has also contended that Credit Suisse's settlement of civil litigation brought by Jewish organizations including SWC in the 1990s moots any need to conduct further investigation in this matter.²⁰³ While that may or may not be true with respect to any legal liability that the Bank may have for its historical support of high-ranking Nazis during and after World War II, those settlements do not have anything to do with the integrity of the current investigation that the Bank chose to undertake. Credit Suisse made assurances to SWC that it would conduct an independent investigation into its allegations, and signed contracts with the Independent Ombudsperson and Advisor in which it formally agreed to undertake that investigation under impartial oversight. Any settlements of claims from the 1990s—which the Bank was fully aware of when it made those assurances—have no bearing on whether it has conducted the credible investigation with appropriate oversight that it assured SWC it would do.

E. The Bank's Review of the Independent Ombudsperson's Report

As referenced above, a draft of the factual content of this Report was provided to the Bank

²⁰² Letter from Ombudsperson to Credit Suisse, August 16, 2022.

²⁰³ Letter from Credit Suisse to Ombudsperson, July 13, 2022.

pursuant to contractual obligation in the Independent Ombudsperson and Advisor’s Engagement Letters on December 16, 2022, in order to give the Bank an opportunity to review and respond to the facts presented.²⁰⁴ At the Bank’s request, the Ombudsperson agreed to provide Credit Suisse with an extension to the three-week deadline imposed by the Engagement Letter to allow the Bank approximately six weeks to respond.²⁰⁵ During that time period, AlixPartners reached out to the Ombudsperson to provide notes and comments on Part V of this Report.²⁰⁶ AlixPartners, which had been dismissed by the Bank in 2022 after the Bank deemed its investigation concluded, informed the Ombudsperson it was called back to review the facts of Part V of the Report. AlixPartners informed the Ombudsperson’s team that other than some questions it had regarding a list of high-level Nazis that are described in Part V below, it had no other questions or issues with the portion of the Report that it had reviewed. The Ombudsperson answered AlixPartners’ questions and amended the Report accordingly. The Bank has not provided any additional comments on the Report other than the conclusory claims made by new counsel which the Bank retained in January 2022 that the draft provided to it contained “serious factual errors” and “gratuitous and inflammatory statements” without any further elaboration.²⁰⁷ But, the Bank’s new counsel declined repeated invitations from the Ombudsperson to provide specific comments or proposed edits to the Report, instead making the claim that the Ombudsperson should not have prepared any report because he was terminated. This, of course, ignores the Engagement Letter’s command that the Ombudsperson “shall” prepare a report which should be delivered to the Bank “at or around termination” which in turn “shall” be publicly released.

²⁰⁴ Email from Ombudsperson to Credit Suisse, December 16, 2022.

²⁰⁵ Email from Ombudsperson to Credit Suisse, January 4, 2023.

²⁰⁶ Email from AlixPartners to Ombudsperson, January 10, 2023.

²⁰⁷ Letter from Credit Suisse to Ombudsperson, January 25, 2023.

The next step in the process allowed the Bank fifteen days to conduct a legal review and object to any disclosures in the Report.²⁰⁸

* * *

The subsequent Parts of this Report set forth further detail about the investigation; its preliminary and new findings about Credit Suisse's ties to Nazis and Nazi-linked accounts; the actions of Bank to first expand and then retract its scope; the shortcomings of the Bank's work to investigate the leads provided to it and meet the recommendations made by the Independent Ombudsperson to ensure thoroughness; and the specific additional work by the Bank that is needed to ensure the performance of a complete and credible investigation. Finally, the Independent Advisor's report on his work in the matter, as well as the potential consequences of Credit Suisse's course of action, are set forth in Part VI.

²⁰⁸ Engagement Letter at Sec. VI(b).

II. PREVIOUS INVESTIGATIONS INVOLVING CREDIT SUISSE AND THE NAZIS

As noted in Part I above, during the 1990s a series of high-profile investigations were conducted in response to allegations regarding the Swiss banks' unlawful retention of Holocaust victim's assets. Those investigations were not intended to, and did not, fully address the concerns raised by SWC that resulted in the commencement and expansion of the current investigation. Using the tools available at the time, they uncovered significant bodies of information about how some Swiss banks, especially that era's large banks including Credit Suisse, assisted in exploiting the victims of the Holocaust; retained assets belonging to Holocaust victims and their heirs; and supported the economic foundations of the Nazi regime. But, they did not comprehensively investigate key questions raised by SWC's allegations, including whether individuals affiliated with the Nazis in Argentina held accounts at Credit Suisse, the extent of the involvement of Swiss banks such as Credit Suisse in providing banking services for participants in the Ratlines after the war, or the existence of Nazi accounts at Credit Suisse.

In part because one of SWC's current allegations is that Credit Suisse "obfuscated" these investigations and that they were otherwise insufficient to address its concerns, and in part because the Bank itself has taken the opposite position and has asserted that these prior investigations obviate the need for further review of SWC's allegations, this Part provides an overview of the investigative efforts that began in the 1990s, some of their findings relating to Credit Suisse, and as referenced above in Part I, their limitations in addressing the SWC allegations that are the subject of this engagement.

A. Overview of Prior Investigative Efforts

In the waning days of World War II, efforts began to try to identify whether Swiss banks

were holding assets of Nazis or Nazi victims.²⁰⁹ Initially, these actions were taken in response to government mandates to attempt to prevent the Nazis from funding their own escape from Europe. As time went on, their focus shifted to identifying assets belonging to victims of Nazi persecution. These initial efforts, which continued sporadically for decades, were later described as being of limited scope and effectiveness.²¹⁰

Interest in the topic surged in the 1990s with the end of the Cold War, which created new access to records and individuals as the Iron Curtain lifted. Public criticism about the insufficiency of the prior efforts of Swiss banks also began to build, which led to multiple efforts in the United States, Switzerland, and elsewhere to investigate the historical truths of the retention of Holocaust victim assets by Swiss banks, as well as the involvement of Swiss banks in the Nazi economy and war effort. In addition, efforts were undertaken in other countries—including, as relevant to the current allegations, Argentina—to determine their connections with Nazi finances.

Numerous government and non-government avenues were taken to explore these issues—including a series of U.S. congressional hearings, U.S.-based class action litigation, Swiss and Argentine government-sponsored commissions, and several private investigations. Among these were a commission led by former Federal Reserve Chairman Paul A. Volcker, set up by agreement between Jewish organizations and the Swiss banks; the Bergier Commission, set up by the Swiss government; and, as relevant to Credit Suisse, the Bank's own internal investigation, led by the Bank's historian.

²⁰⁹ Bergier Commission, *Switzerland, National Socialism, and the Second World War. Final Report* (2002), at 442–57; Volcker Report, *Report on Dormant Accounts of Victims of Nazi Persecution in Swiss Banks* (1999), at 3.

²¹⁰ Volcker Report, *Report on Dormant Accounts of Victims of Nazi Persecution in Swiss Banks* (1999), Annex 5, at 87–97; see also Stephanie A. Bilenger, *In re Holocaust Victims' Assets Litigation: Do the U.S. Courts have Jurisdiction Over the Lawsuits Filed by Holocaust Survivors Against the Swiss Banks?*, 21 MD. J. INT'L L. & TRADE 251 (1997), at 255–56; Bergier Commission, *Switzerland, National Socialism, and the Second World War. Final Report* (2002), at 451–55.

This Part briefly summarizes the findings of those efforts, as relevant to this Report.

1. Findings of the Previous Investigations

The prior efforts uncovered important and substantial information about the relationship between Nazi Germany and the Swiss banking sector. In doing so, they provided historically significant insight into the role of the banks, including Credit Suisse,²¹¹ in facilitating Nazi looting of their victims. They also made findings specifically about the work that the banks, including Credit Suisse, did on behalf of the Nazis.

a. Overview of the Swiss Banks and Nazi Germany

As detailed in the investigative work of the prior commissions, the Swiss banks and Germany had a symbiotic investment relationship between the end of World War I and the early 1930s: Germans deposited assets in Swiss banks based on the banks' reputation for reliability and stability,²¹² and in turn, Swiss banks made substantial loans to entities in Germany.²¹³ In 1931, an international financial crisis led to Germany imposing restrictions on capital leaving the country, in effect trapping the Swiss banks' assets in Germany and preventing the banks from being repaid

²¹¹ Credit Suisse did not exist as such during this period, and the findings of the Bergier Commission and others relate to its various predecessor banks, such as SKA, Schweizerische Volksbank ("SVB"), Bank Leu, Schweizerische Bodenkreditanstalt ("SBKA"), Bank Hofmann, Fides, and the Bank in Zürich. This Part uses the term "Credit Suisse" generically to refer to these banks or other entities, although it also uses the specific name of the predecessor entity when appropriate.

²¹² Bergier Commission, *Switzerland, National Socialism, and the Second World War. Final Report* (2002), at 261.

²¹³ Bergier Commission, *Switzerland, National Socialism, and the Second World War. Final Report* (2002), at 261–62. Specifically, this investment was partly due to the limited capacity of Swiss capital markets, and partly due to higher returns. *Id.* Credit Suisse's historical review found that as of 1930 or 1931, Credit Suisse's German exposure was considerable: 420 million Swiss francs for SKA, 196 million Swiss francs for SVB, and 94 million Swiss francs for Bank Leu. Joseph Jung, *Zwischen Bundeshaus und Paradeplatz. Die Banken der Credit Suisse Group im Zweiten Weltkrieg* (2001), at 14. In absolute terms, SKA was the Swiss bank that granted the most credit to Germany during the 1920s. In 1931, at the time of the financial crisis, 27% of its balance sheet was placed in Germany. Bergier Commission, Vol. 13, *La place financière et les banques suisses à l'époque du national-socialisme. Les relations des grandes banques avec l'Allemagne (1931–1946)* (2002), at 207, 220.

on their loans.²¹⁴ In response, the Swiss banks signed agreements with Germany permitting the banks to effectively move their blocked assets from Germany into Switzerland by allowing payment on the loans.²¹⁵ The “anticipation of war and economic distress, as well as the persecution of Jews and other minorities by the Nazis” also caused many people, including victims of Nazi persecution, to move their assets to “countries deemed to provide safe havens,” including Switzerland.²¹⁶

In the lead-up to and throughout much of the duration of World War II, Swiss banks continued their relationship with Germany, providing loans to German companies and financial institutions and financial services to Germans, such as “foreign currency dealings, the purchase and sale of banknotes, help[ing] with gold transactions, financ[ing] business dealings, and facilitat[ing] three-way business with other countries.”²¹⁷

The Swiss banks came under increasing criticism from the Allies for these connections after the United States entered the war in December 1941, based on allegations by the Allies that the Nazis were “transferring assets to and through neutral countries” like Switzerland.²¹⁸ The Swiss banks nevertheless continued their economic relationships with Nazi Germany until February 1945, when, with the outcome of the war no longer in doubt, the Swiss government froze German assets located in Switzerland.²¹⁹

²¹⁴ Bergier Commission, *Switzerland, National Socialism, and the Second World War. Final Report* (2002), at 262.

²¹⁵ Bergier Commission, *Switzerland, National Socialism, and the Second World War. Final Report* (2002), at 263–64.

²¹⁶ Volcker Commission, *Report on Dormant Accounts of Victims of Nazi Persecution in Swiss Banks* (1999), at 2 ¶8.

²¹⁷ Bergier Commission, *Switzerland, National Socialism, and the Second World War. Final Report* (2002), at 268.

²¹⁸ Bergier Commission, *Switzerland, National Socialism, and the Second World War. Final Report* (2002), at 272–73 (quoting sixth decision of the United Nations Monetary and Financial Conference at Bretton Woods (July 1944)).

²¹⁹ Joseph Jung, *Zwischen Bundeshaus und Paradeplatz. Die Banken der Credit Suisse Group im Zweiten*

b. Credit Suisse and Nazi Victims

The prior investigations identified numerous contacts between Credit Suisse and Nazi Germany.²²⁰ For example, the Bergier Commission recounted how Credit Suisse was involved in transferring assets of Nazi victims back to Germany, where the assets were then confiscated, even in cases when the Bank knew that the Nazis had coerced account holders to allow such transfers.²²¹ In one example, an employee of SKA, a predecessor bank of Credit Suisse, disclosed the names of 75 German clients to the Gestapo (the German secret police) between 1941 and 1942, in violation of Swiss law and Bank rules, and those customers were forced by the Gestapo to recall their assets to Germany. Although the employee was eventually imprisoned for his violation of Swiss law, the Bergier Commission found that SKA continued to carry out forced withdrawal requests of Nazi victims thereafter.²²² Even as it did so, the Bergier Commission found that the Bank took steps to protect itself—facially instructing the German banks which were the recipients

Weltkrieg (2001), at 468; see generally Linus von Castelmur, *Schweizerisch-Alliierte Finanzbeziehungen im Übergang von Zweiten Weltkrieg zum Kalten Krieg. Die deutschen Guthaben in der Schweiz zwischen Zwangsliquidierung und Freigabe (1945-1952)*, (1992 [second edition 1997]); Marco Durrer, *Die schweizerisch-amerikanischen Finanzbeziehungen im Zweiten Weltkrieg. Von der Blockierung der schweizerischen Guthaben in den USA über die «Safehaven»-Politik zum Washingtoner Abkommen (1941-1946)*, (1984).

²²⁰ For instance, the Bank's historical review noted that Wilhelm Schulthess, SBKA's director, was notorious for cultivating German business through his connections to influential Germans, including members of the Nazi party. Joseph Jung, *Zwischen Bundeshaus und Paradeplatz. Die Banken der Credit Suisse Group im Zweiten Weltkrieg* (2001), at 102. According to a report by the cantonal police of Zurich quoted by the Bank, Schulthess went on a 14-day car trip with Heinrich Himmler, the head of the SS (the Nazi's main security and surveillance arm), across Germany in 1944. Joseph Jung, *Zwischen Bundeshaus und Paradeplatz. Die Banken der Credit Suisse Group im Zweiten Weltkrieg* (2001), at 102–03.

²²¹ Bergier Commission, Vol. 15, *Nachrichtenlose Vermögen bei Schweizer Banken. Depots, Konten und Safes von Opfern des nationalsozialistischen Regimes und Restitutionsprobleme in der Nachkriegszeit* (2001), at 112–13, 122–25, 152, 165–99; Bergier Commission, *Switzerland, National Socialism, and Second World War. Final Report* (2002), at 274–77; Joseph Jung, *Zwischen Bundeshaus und Paradeplatz. Die Banken der Credit Suisse Group im Zweiten Weltkrieg* (2001), at 15–16, 106–08; Arthur Andersen, *Credit Suisse Group. Final Report on the Second Phase Forensic Accounting Investigation*, July 12, 1999, at 333 ¶1.2.8.

²²² Bergier Commission, Vol. 15, *Nachrichtenlose Vermögen bei Schweizer Banken. Depots, Konten und Safes von Opfern des nationalsozialistischen Regimes und Restitutionsprobleme in der Nachkriegszeit* (2001), at 122–24.

of the forced transfers to use the assets for the benefit of the individuals, even though the Bank knew the assets were being confiscated by the Nazis.²²³

In addition to these findings, the prior investigations uncovered numerous other ways in which Credit Suisse was involved in assisting Nazi persecution and victimization, including:

- Credit Suisse was involved in the “Aryanization” of Jewish companies—*i.e.*, the process by which Nazis restricted the involvement of Jews in the economy and forced transfers of their assets to non-Jews.²²⁴ The Bank’s historical review noted this was accomplished by assisting Aryan entities with their takeover of Jewish owned companies, auctioning Jewish owned property, or extending new, favorable credit offers to non-Jewish customers who took over Jewish businesses because the Bank assumed that “Aryan” leadership would generate more profit.²²⁵
- Credit Suisse conducted transactions in gold with Germany throughout the war, including after the Allies told the Swiss banks that the gold was possibly looted. The Bank’s historical review conceded it was “impossible to understand” why Credit Suisse continued to engage in these transactions

²²³ Bergier Commission, Vol. 15, *Nachrichtenlose Vermögen bei Schweizer Banken. Depots, Konten und Safes von Opfern des nationalsozialistischen Regimes und Restitutionsprobleme in der Nachkriegszeit* (2001), at 124. In another example recounted by the Bergier Commission, following Germany’s invasion of Poland in 1939, a Polish bank had requested that Credit Suisse transfer assets deposited with it to the Reichsbank. The Bank’s “legal affairs department” recommended that the Bank deny the request, reasoning that it had likely been obtained under duress, given the circumstances of the Nazi invasion of Poland. Credit Suisse nonetheless transferred the assets because the Bank “still had important interests in Germany, and should avoid friction and unpleasantness whenever possible.” Bergier Commission, *Switzerland, National Socialism, and the Second World War. Final Report* (2002 [English Version]), at 276–77.

²²⁴ Joseph Jung, *Zwischen Bundeshaus und Paradeplatz. Die Banken der Credit Suisse Group im Zweiten Weltkrieg* (2001), at 121–42; Bergier Commission, *Switzerland, National Socialism, and the Second World War. Final Report* (2002), at 322–23.

²²⁵ Joseph Jung, *Zwischen Bundeshaus und Paradeplatz. Die Banken der Credit Suisse Group im Zweiten Weltkrieg* (2001), at 124–31. For example, the Bank’s historical review described a case in which a Jewish-owned clothing company took out a loan from one of Credit Suisse’s predecessor banks, Bank Leu, secured by a mortgage on their property, but was unable to meet payment deadlines in light of growing restrictions and boycotts against Jews in the 1930s. Consequently, the Jewish owners of the clothing company sold their business to a German owner, but continued to own the land on which the business was located. A representative of Bank Leu expressed concerns in a directors’ meeting about the continued, indirect Jewish participation in the business due to the property ownership. When the Jewish-owned entity could no longer make payments, Bank Leu foreclosed on the property, noting that its acquisition eliminated the risks associated with the “non-[A]ryan” ownership. Joseph Jung, *Zwischen Bundeshaus und Paradeplatz. Die Banken der Credit Suisse Group im Zweiten Weltkrieg* (2001), at 124.

after the Allies informed them about the gold's possible source.²²⁶

- Credit Suisse ignored the problematic nature of its foreign bank note transactions (*i.e.*, foreign currency exchange), in which Nazis sold bank notes looted from other countries to Credit Suisse and Credit Suisse provided the Nazis with other currencies the Nazis needed to support their war efforts.²²⁷ For instance, the Bergier Commission reported that Bank Leu, a Credit Suisse predecessor bank, agreed to buy over 100 million French francs that the Nazis looted from a German bank, deciding to value the profitability of the transaction over the possible repercussions to the Bank should the Allies discover it.²²⁸
- A Credit Suisse predecessor, Fides, was involved in trading looted art, including facilitating the sale of looted art to collectors abroad, arranging auctions of art looted from Jews, and arranging the transfer of art from the German Reich to institutions in Switzerland.²²⁹ In order to continue some of this work, Fides offered favorable currency exchange transactions to the Nazi government, including Nazi official Herbert Göring, the step-brother of Nazi leader Hermann Göring.²³⁰
- The prior investigations also criticized Credit Suisse's handling of dormant accounts presumed to have belonged to victims of Nazi persecution after the war, noting that its approach to restoring those accounts to victims' heirs was "formal and legalistic" and that "until recently there was no meaningful

²²⁶ Joseph Jung, *Zwischen Bundeshaus und Paradeplatz. Die Banken der Credit Suisse Group im Zweiten Weltkrieg* (2001), at 206–207, 226–229, 240; Joseph Jung, *Credit Suisse Group Banks in World War II. A critical review* (2002), at 18, 20.

²²⁷ Bergier Commission, Vol. 13, *La place financière et les banques suisses à l'époque du national-socialisme. Les relations des grandes banques avec l'Allemagne (1931–1946)* (2002), at 297–326. Practically all the Swiss banks were involved in this trade; the Bergier Commission noted that they were particularly attracted to it because it was virtually impossible to trace back to the banks as sellers, thereby limiting their risks of claims for restitution. Bergier Commission, Vol. 13, *La place financière et les banques suisses à l'époque du national-socialisme. Les relations des grandes banques avec l'Allemagne (1931–1946)* (2002), at 299.

²²⁸ Bergier Commission, Vol. 25, *Aspects des relations financières franco-suisses (1936–1946)* (2002), at 122–27.

²²⁹ Bergier Commission, *Switzerland, National Socialism, and the Second World War. Final Report* (2002), at 351–52; Bergier Commission, Vol. 1, *Fluchtgut – Raubgut. Der Transfer von Kulturgütern in und über die Schweiz 1933–1945 und die Frage der Restitution* (2002), at 124; Joseph Jung, *Zwischen Bundeshaus und Paradeplatz. Die Banken der Credit Suisse Group im Zweiten Weltkrieg* (2001), at 21. On Fides' role see generally Joseph Jung, *Zwischen Bundeshaus und Paradeplatz. Die Banken der Credit Suisse Group im Zweiten Weltkrieg* (2001), at 334–70.

²³⁰ Bergier Commission, Vol. 1, *Fluchtgut – Raubgut. Der Transfer von Kulturgütern in und über die Schweiz 1933–1945 und die Frage der Restitution* (2002), at 125–26; Joseph Jung, *Zwischen Bundeshaus und Paradeplatz. Die Banken der Credit Suisse Group im Zweiten Weltkrieg* (2001), at 346.

attempt to resolve the problem in a comprehensive manner.”²³¹

c. Credit Suisse and Nazi Accounts

The prior investigations also touched on Credit Suisse’s role in servicing the Nazis directly. At a general level, the prior investigative work concluded that Swiss banks, including Credit Suisse, provided an array of banking services to Nazis and Nazi-affiliates. For example, the Bergier Commission found that some Swiss banks assisted Germans in transferring assets to Switzerland in order to avoid asset freezes or confiscation—particularly after 1943, when the Nazi elite were likely attempting to preserve their personal wealth after it became increasingly clear that the Nazis would likely lose the war.²³² Further, the Volcker Commission found that the customer names on approximately 1,600 accounts in the records of Swiss banks matched the names of known Nazis, but did not investigate them further.²³³ The Bergier Commission later uncovered multiple Nazi accounts at Swiss banks, including at Credit Suisse, but did not conduct a comprehensive investigation of the Bank’s Nazi ties.²³⁴

²³¹ Andersen Report, *Final Report on the Second Phase Forensic Accounting Investigation*, July 12, 1999, at 16 ¶1.9.1; see generally Bergier Commission, Vol. 15, *Nachrichtenlose Vermögen bei Schweizer Banken. Depots, Konten und Safes von Opfern des nationalsozialistischen Regimes und Restitutionsprobleme in der Nachkriegszeit* (2002).

²³² Bergier Commission, *Switzerland, National Socialism, and the Second World War. Final Report* (2002), at 372, 378–79; Bergier Commission, Vol. 9, *Tarnung, Transfer, Transit. Die Schweiz als Drehscheibe verdeckter deutscher Operationen (1939–1952)* (2002), at 107–08.

²³³ Volcker Report, *Report on Dormant Accounts of Victims of Nazi Persecution in Swiss Banks* (1999), Annex 6, at 103–04. Neither the Volcker Commission nor the accounting firms working for the Commission conducted the additional step of confirming that those name matches were true identity matches, i.e., that the individuals were truly the same people and did not simply have the same name. Volcker Report, *Report on Dormant Accounts of Victims of Nazi Persecution in Swiss Banks* (1999), at 16; Bergier Commission, *Switzerland, National Socialism, and the Second World War. Final Report* (2002), at 380.

²³⁴ Bergier Commission, *Switzerland, National Socialism, and the Second World War. Final Report* (2002), at 380–82. For instance, the Zurich Cantonal bank identified several Nazis in its accounts, including individuals who sold gold on behalf of the Nazi regime. Bergier Commission, Vol. 9, *Tarnung, Transfer, Transit. Die Schweiz als Drehscheibe verdeckter deutscher Operationen (1939–1952)* (2002), at 138–42. Three customers were identified at Union Bank of Switzerland (“UBS”) (including at its predecessor banks). Bergier Commission, Vol. 9, *Tarnung, Transfer, Transit. Die Schweiz als Drehscheibe verdeckter deutscher Operationen (1939–1952)* (2002), at 151–52. The Bergier

This section briefly summarizes those findings as they relate to Credit Suisse.

i. Nazi Accounts Held by Credit Suisse

The investigation by Credit Suisse's historian identified numerous accounts at Credit Suisse associated with Nazis. In order to search for and identify those Nazi accounts among Credit Suisse's account files, the Bank's historical review compiled a list of Nazis by combining: (1) the 1997 SWC List of some of the most notorious and high-ranking Nazis, which was compiled by SWC and transmitted to the Swiss Bankers Association, which then distributed it to Credit Suisse²³⁵ (a total of 334 names), as referenced above in Part I; (2) a list of those accused at the Nuremberg trials²³⁶ (a total of 201 names) (the "Nuremberg List");²³⁷ and (3) a list of 662 entity names (*i.e.*, companies and not individual people), derived from historian Christopher Simpson's list of German companies "reported to be active in exploitation of forced labor during the Third Reich," as well as entity lists prepared by three other academics.²³⁸

Through Credit Suisse's historical review, the Bank confirmed fourteen of the Nazis on the lists of individual names held accounts at Credit Suisse predecessor entities.²³⁹ The Bank's historical review found that nine of the fourteen accounts were active before or during the war and

Commission speculated that the low number at UBS was due to the destruction of records, rather than an actual low number of relationships. Bergier Commission, Vol. 9, *Tarnung, Transfer, Transit. Die Schweiz als Drehscheibe verdeckter deutscher Operationen (1939–1952)* (2002), at 152.

²³⁵ Letter from SWC to President of the Confederation of Switzerland, February 12, 1997.

²³⁶ The Nuremberg trials were a series of trials at an "international military tribunal to pass sentence on the principal German war criminals in order to call them to account as quickly as possible" between November 1945 and August 1946. Bergier Commission, *Switzerland, National Socialism, and the Second World War. Final Report* (2002), at 430.

²³⁷ The Bank's historical review subtracted 75 names included on both lists to prepare its final list of 460 names. Joseph Jung, *Zwischen Bundeshaus und Paradeplatz. Die Banken der Credit Suisse Group im Zweiten Weltkrieg* (2001), at 144.

²³⁸ Joseph Jung, *Zwischen Bundeshaus und Paradeplatz. Die Banken der Credit Suisse Group im Zweiten Weltkrieg* (2001), at 144, 146.

²³⁹ Joseph Jung, *Zwischen Bundeshaus und Paradeplatz. Die Banken der Credit Suisse Group im Zweiten Weltkrieg* (2001), at 145.

five were opened after the war.²⁴⁰

Although the names of the Nazi account holders were not published in Credit Suisse's historical review, the Bergier Commission identified some of these account holders by name:

- One belonged to Arthur Seyss-Inquart, a leader of the Nazi party who, as governor of Austria, confiscated Jewish property, deported almost 120,000 Jews to be murdered at Auschwitz and sent 500,000 people from the Netherlands to Germany as compelled labor. He was sentenced to death by hanging at Nuremberg.²⁴¹
- Two others belonged to individuals indicted but acquitted at Nuremberg—Franz von Papen, who helped the Nazis seize power in 1933 and was a German diplomat serving in Turkey during the war, and Hjalmar Schacht, Minister of Economic Affairs and President of the Reichsbank.²⁴²
- Another account belonged to Ernst von Weizsäcker, the German envoy to Switzerland from 1934-1938.²⁴³ He was found guilty of cooperating with the deportation of French Jews to Auschwitz by a Nuremberg Military Tribunal (an American military tribunal separate from the main tribunal), but was eventually released after reconsideration of his case.²⁴⁴
- One account belonged to the widow of Joachim von Ribbentrop, the Nazi Foreign Minister who played an important part in Hitler's Final Solution and was executed at Nuremberg.²⁴⁵

²⁴⁰ Joseph Jung, *Zwischen Bundeshaus und Paradeplatz. Die Banken der Credit Suisse Group im Zweiten Weltkrieg* (2001), at 145.

²⁴¹ Bergier Commission, Vol. 9, *Tarnung, Transfer, Transit. Die Schweiz als Drehscheibe verdeckter deutscher Operationen (1939–1952)* (2002), at 152; Jewish Virtual Library, *Nuremberg Trial Judgements: Arthur Seyss-Inquart*, <https://www.jewishvirtuallibrary.org/nuremberg-trial-judgements-arthur-seyss-inquart>; Jewish Virtual Library, *The Nuremberg Trials: In-Depth Overview of Judgements & Sentencings*, <https://www.jewishvirtuallibrary.org/in-depth-overview-of-judgements-in-nuremburg-trials>.

²⁴² Bergier Commission, *Switzerland, National Socialism, and World War II. Final Report* (2002), at 381; Bergier Commission, Vol. 9, *Tarnung, Transfer, Transit. Die Schweiz als Drehscheibe verdeckter deutscher Operationen (1939–1952)* (2002), at 153; Jewish Virtual Library, *Nuremberg Trial Judgements: Hjalmer Schacht*, <https://www.jewishvirtuallibrary.org/nuremberg-trial-judgements-hjalmar-schacht>.

²⁴³ Bergier Commission, *Switzerland, National Socialism, and the Second World War. Final Report* (2002), at 381.

²⁴⁴ Bergier Commission, *Switzerland, National Socialism, and the Second World War. Final Report* (2002), at 381; see Matthew Lippman, *The Good Motive Defense: Ernst Von Weizsaecker and the Nazi Ministeries Case*, 7 *TOURO INT'L L. REV.* 57 (1997), at 135–41.

²⁴⁵ Bergier Commission, Vol. 9, *Tarnung, Transfer, Transit. Die Schweiz als Drehscheibe verdeckter deutscher Operationen (1939–1952)* (2002), at 152; Jewish Virtual Library, *Nuremberg Trial Judgements: Joachim von Ribbentrop*, <https://www.jewishvirtuallibrary.org/nuremberg-trial-judgements-joachim-von-ribbentrop>.

Seyss-Inquart, von Papen, Schacht, and von Ribbentrop were on the 1997 SWC List.²⁴⁶ They can be identified in this Report because the Bergier Commission publicly identified these accounts and the Swiss government waived its bank secrecy laws for the purpose of the Bergier Commission's report. The others, which were not publicly disclosed by the Bergier Commission, are still potentially subject to Swiss bank secrecy laws and were not publicly named by the Bank's historical review, although they were shared with the Independent Ombudsperson and Advisor prior to the "hold" that was put on the Ombudsperson's oversight in June 2022.

Credit Suisse's historical review also identified several instances in which SVB, a predecessor bank of Credit Suisse, fiduciarily stored likely-looted assets of individuals with Nazi ties in accordance with a federal mandate regarding the assets of refugees in early 1945.²⁴⁷ For example, SVB received assets from a former member of the German military's war reporting operations department on March 8, 1945. Swiss authorities suspected that he was a Nazi whose assets had likely been looted from Jewish victims and threatened him with expulsion, after which he fled to São Paulo in August 1947.²⁴⁸ Another refugee, whose cash assets were held in trust by SVB, had received 270,000 Swiss francs in cash in Italy at the end of February 1945 with the direction to hand it over to the German envoy [or legation] in Berne for the purchase of war material.²⁴⁹ He was expelled from Switzerland, and later tried unsuccessfully to recover the funds. SVB closed his account in September 1956 and transferred the assets to Düsseldorf, though Credit

²⁴⁶ List of Senior Nazi Officials, Leaders of the SS and the Concentration Camps, Industrialists and Bankers Who May Have Transferred Looted Assets to Neutral Countries, SWC (1997).

²⁴⁷ Joseph Jung, *Zwischen Bundeshaus und Paradeplatz. Die Banken der Credit Suisse Group im Zweiten Weltkrieg* (2001), at 679–82.

²⁴⁸ Joseph Jung, *Zwischen Bundeshaus und Paradeplatz. Die Banken der Credit Suisse Group im Zweiten Weltkrieg* (2001), at 680–81.

²⁴⁹ Joseph Jung, *Zwischen Bundeshaus und Paradeplatz. Die Banken der Credit Suisse Group im Zweiten Weltkrieg* (2001), at 680–81.

Suisse’s archives do not indicate who eventually received them.²⁵⁰

Credit Suisse’s historical review ultimately concluded that the Bank did not maintain business relationships with Nazi-related individuals for “strategic” reasons—pointing to the low number of accounts²⁵¹ and the assertion that Swiss banks did not become aware of the atrocities of World War II until between 1941 and 1943.²⁵² The Bergier Commission did not draw conclusions about the reasons for the Bank’s business relationships, but the latter assertion that Credit Suisse was unaware of Nazi atrocities was not shared by the Bergier Commission, which noted that the banks were aware of at least some of the Nazi practices of forcing Jewish customers to transfer their assets—if not the extent of them—by 1938 at the latest.²⁵³ Moreover, as explained further in Part III below, the current investigation has demonstrated that the Bank’s prior historical investigation failed to identify a number of accounts belonging to the Nazis included on the lists it reviewed, both for those who had accounts prior to the conclusion of the war and afterwards.

ii. German Transactions Through Credit Suisse

The Bergier Commission reported additional findings about Credit Suisse’s connection to

²⁵⁰ Joseph Jung, *Zwischen Bundeshaus und Paradeplatz. Die Banken der Credit Suisse Group im Zweiten Weltkrieg* (2001), at 681. In addition, as part of a separate investigation process, the Bank’s historical review identified seventeen accounts of German companies that recruited forced labor from concentration camps. The largest of these accounts was an 8.75 million Swiss franc line of credit; other account balances varied from tens of thousands of Swiss francs to several million. However, the Bank’s historical review noted, a significant number of problematic entities—those who banked at Credit Suisse and who did not—continued to exist after 1945 and are in some cases still active businesses today, although the Bank’s historical review did not identify which entities they were discussing due to bank secrecy laws. Joseph Jung, *Zwischen Bundeshaus und Paradeplatz. Die Banken der Credit Suisse Group im Zweiten Weltkrieg* (2001), at 148–49; see also Bergier Commission, Vol 13, *La place financière et les banques suisses à l’époque du national-socialisme. Les relations des grandes banques avec l’Allemagne (1931–1946)* (2002), at 276–84, 400–01 (describing some of SKA’s relationships with German companies).

²⁵¹ Joseph Jung, *Zwischen Bundeshaus und Paradeplatz. Die Banken der Credit Suisse Group im Zweiten Weltkrieg* (2001), at 146.

²⁵² Joseph Jung, *Zwischen Bundeshaus und Paradeplatz. Die Banken der Credit Suisse Group im Zweiten Weltkrieg* (2001), at 146.

²⁵³ Bergier Commission, Vol. 15, *Nachrichtenlose Vermögen bei Schweizer Banken. Depots, Konten und Safes von Opfern des nationalsozialistischen Regimes und Restitutionsprobleme in der Nachkriegszeit* (2001), at 166.

the Nazis relating to a Swiss citizen named Alfred Kurzmeyer. According to the Commission, Kurzmeyer was a senior official at Deutsche Bank and, by 1944, had the authority to manage most of the bank's property in Switzerland.²⁵⁴ Kurzmeyer was also personal friends with one of the general directors of SKA.²⁵⁵ In 1944, Kurzmeyer facilitated several transactions involving Credit Suisse for Deutsche Bank, including a transaction for the Reichsbank that the Bergier Commission reported likely involved looted gold.²⁵⁶ His role was generally to hold funds in his accounts on behalf of Deutsche Bank, as well as for Nazis and Nazi-related entities. The purpose of his role was to mask the true ownership of the assets and to make it appear as if they were owned by him, a Swiss citizen, which could, for example, protect them from being frozen or seized when the Nazis lost the war.²⁵⁷

For instance, one transaction facilitated by Kurzmeyer occurred in 1944, through Turkey. Swiss authorities uncovered a document in which Kurzmeyer acknowledged his receipt of approximately 1.15 million Swiss francs from Deutsche Bank accounts in Turkey, which came from the sale of gold held by the German legation in Istanbul.²⁵⁸ In the resulting criminal investigation of Kurzmeyer, SKA stated that Kurzmeyer had deposited 615,000 of the Swiss francs in an SKA account on September 11, 1944, for the benefit of the German Consulate General in Zurich; it was then withdrawn in cash from the consulate two weeks later. As to the other half million Swiss francs, SKA could not provide any information, and further investigation could not

²⁵⁴ Bergier Commission, Vol. 9, *Tarnung, Transfer, Transit. Die Schweiz als Drehscheibe verdeckter deutscher Operationen (1939–1952)* (2002), at 155–56.

²⁵⁵ Bergier Commission, Vol. 9, *Tarnung, Transfer, Transit. Die Schweiz als Drehscheibe verdeckter deutscher Operationen (1939–1952)* (2002), at 169 & n.247.

²⁵⁶ Bergier Commission, Vol. 9, *Tarnung, Transfer, Transit. Die Schweiz als Drehscheibe verdeckter deutscher Operationen (1939–1952)* (2002), at 155–64.

²⁵⁷ See, e.g., Bergier Commission, Vol. 9, *Tarnung, Transfer, Transit. Die Schweiz als Drehscheibe verdeckter deutscher Operationen (1939–1952)* (2002), at 155–56, 158–59.

²⁵⁸ Bergier Commission, Vol. 9, *Tarnung, Transfer, Transit. Die Schweiz als Drehscheibe verdeckter deutscher Operationen (1939–1952)* (2002), at 161.

trace the funds.²⁵⁹

A 1999 report written as part of an investigation by Deutsche Bank into its own activities during World War II described yet another transaction by Kurzmeyer, which implicated Credit Suisse. According to that source, beginning in 1944, Kurzmeyer held hundreds of kilograms of possibly looted gold²⁶⁰ at Credit Suisse banks in trust for Deutsche Bank Istanbul.²⁶¹ The gold remained in the account until 1995, when Deutsche Bank sold the gold for 5.6 million Deutschmarks (a value of approximately \$7.5 million today) and later donated the proceeds to Jewish charities because of Deutsche Bank's determination of the "uncertain history" of the funds.²⁶²

iii. SS Accounts at Credit Suisse

In addition to the Nazi-affiliated accounts and transactions listed above, the Bergier Commission also identified documents in public sources indicating that "three . . . representatives of the SS," the Nazis' main security and surveillance arm—which was also in charge of concentration and extermination camps—had "maintained a customer relationship with [Credit Suisse]."²⁶³ The Commission also found public, archival documents referencing a Credit Suisse account for DWB, a holding company for numerous SS companies that had been entrusted with the economic exploitation of the Jews in connection with the "Final Solution,"²⁶⁴ led by SS

²⁵⁹ Bergier Commission, Vol. 9, *Tarnung, Transfer, Transit. Die Schweiz als Drehscheibe verdeckter deutscher Operationen (1939–1952)* (2002), at 162.

²⁶⁰ The amount was originally 307 kilograms of gold, but in 1954 Kurzmeyer declared these assets as German in order to transfer the funds, resulting in payment of a one-third fine to the government. Jonathan Steinberg, *The Deutsche Bank and its Gold Transactions* (1999), at 63–66 & n.132.

²⁶¹ Jonathan Steinberg, *The Deutsche Bank and its Gold Transactions* (1999), at 63–66.

²⁶² Jonathan Steinberg, *The Deutsche Bank and its Gold Transactions* (1999), at 66.

²⁶³ Bergier Commission, Vol. 9, *Tarnung, Transfer, Transit. Die Schweiz als Drehscheibe verdeckter deutscher Operationen (1939–1952)* (2002), at 151.

²⁶⁴ Bergier Commission, Vol. 9, *Tarnung, Transfer, Transit. Die Schweiz als Drehscheibe verdeckter deutscher Operationen (1939–1952)* (2002), at 164–65; Joseph Jung, *Zwischen Bundeshaus und Paradeplatz. Die Banken der Credit Suisse Group im Zweiten Weltkrieg* (2001), at 146.

Obergruppenführer Oswald Pohl, head of the SS and head of the Main Economic and Administrative Office (WVHA).²⁶⁵ Pohl was convicted of crimes against humanity and executed in 1951.

The Bergier Commission made these findings based on documents it reviewed that were external to Credit Suisse, including correspondence from one of the three representatives that, as discussed below, indicated—but did not prove with documents retained by the Bank—that DWB opened an account at SKA toward the end of the war as a way to preserve assets. In particular, the Bergier Commission found several documents in archives in Berlin, including, first, a memorandum authored by an SS representative, which described how that individual, the DWB managing directors, and Kurzmeyer were authorized to withdraw money from the account; and, second, a note from that same SS representative to another SS official, which referred to an account “that seem[ed] to correspond [to the first account] in every respect” as being located at SKA.²⁶⁶ Together, those documents suggested to the Commission that DWB had an account at SKA from which Kurzmeyer and various SS directors and representatives were authorized to draw, and that at least one of those SS representatives had a relationship with a General Director of SKA.²⁶⁷ The Bergier Commission further found evidence that Kurzmeyer also facilitated the forced transfer of 223,000 Swiss francs from a murdered Hungarian Jew to the SS, through an account at SKA.²⁶⁸

In its public findings, the Bergier Commission reported that Credit Suisse denied that it

²⁶⁵ Walter Naasner, *SS-Wirtschaft und SS-Verwaltung* (1998), at 5–6; *Bergier Commission*, Vol. 9, *Tarnung, Transfer, Transit. Die Schweiz als Drehscheibe verdeckter Deutscher Operationen (1939-1952)* (2002), at 164.

²⁶⁶ Bergier Commission, Vol. 9, *Tarnung, Transfer, Transit. Die Schweiz als Drehscheibe verdeckter deutscher Operationen (1939–1952)* (2002), at 165, 169 n.244–45.

²⁶⁷ Bergier Commission, Vol. 9, *Tarnung, Transfer, Transit. Die Schweiz als Drehscheibe verdeckter deutscher Operationen (1939–1952)* (2002), at 165, 169 n.244–45.

²⁶⁸ Bergier Commission, Vol. 9, *Tarnung, Transfer, Transit. Die Schweiz als Drehscheibe verdeckter deutscher Operationen (1939–1952)* (2002), at 165–68.

retained any records of an account with DWB. As reported by the Bergier Commission, the Bank told the Commission that “[t]here are no indications from the [Bank] documents that SKA entered into a business relationship with DWB during this time period.”²⁶⁹ The Bergier Commission similarly noted in its report that there were “three . . . representatives of the SS” with customer relationships with Credit Suisse (those discussed above) “for whom the bank no longer has any records.”²⁷⁰

Further detail concerning these statements by Credit Suisse to the Bergier Commission—including findings that call into question Credit Suisse’s level of candor when it denied to the Bergier Commission the existence of “a business relationship with DWB”—are discussed in Part III below. Although there is some ambiguity, even under the most conservative reading of Swiss law, in the public version of this Report the Independent Ombudsperson cannot disclose the name of any individual who had or controlled an account at Credit Suisse if they were not previously publicly disclosed. For example, because the Bergier Commission did not publicly identify whether or not Pohl was a Credit Suisse account holder, the Independent Ombudsperson also will not.²⁷¹ The Ombudsperson can confirm in this Report that the Bank identified an account that was controlled by a known Nazi intermediary and one of the three DWB representatives likely referenced by Bergier, and that Credit Suisse possessed evidence of this account in its investigative files at the time of the Bergier Commission, but nonetheless failed to provide it in response to the Commission’s request for such information. The Ombudsperson has seen no evidence that the Bank sought to correct the Bergier Commission after it issued its public report.

²⁶⁹ Bergier Commission, Vol. 9, *Tarnung, Transfer, Transit. Die Schweiz als Drehscheibe verdeckter deutscher Operationen (1939–1952)* (2002), at 169 n.247.

²⁷⁰ Bergier Commission, Vol. 9, *Tarnung, Transfer, Transit. Die Schweiz als Drehscheibe verdeckter deutscher Operationen (1939–1952)* (2002), at 151.

²⁷¹ Bergier Commission, Vol. 9, *Tarnung, Transfer, Transit. Die Schweiz als Drehscheibe verdeckter deutscher Operationen (1939–1952)* (2002), at 170.

iv. Credit Suisse and Blocked Assets

The prior investigations also found that Credit Suisse was implicated in moving German assets in contravention of the Swiss and United States asset freezes on German assets during and after the war. In particular, the Bergier Commission and the Bank's historical review both reported instances during the war in which SBKA, a mortgage bank which merged into Credit Suisse in 1976,²⁷² participated in transferring assets that had been blocked in Germany back into Switzerland where they could be accessed.²⁷³ The Bergier Commission stated "[t]hese sorts of transactions always involved considerable bribes or commissions," and included a network including Wilhelm Oeding, a confidant of Hermann Göring.²⁷⁴

Credit Suisse's historical review further found that in 1942, SBKA was engaged by the Otto Wolff Company—a German company the Bergier Commission noted often redeemed securities on behalf of an organization directed by Hermann Göring²⁷⁵—to sell 1,068 foreign securities that had been stolen by the Nazis; the Bank refused to sell 550 of them because of overwhelming evidence that the securities had been stolen, but nonetheless sold 518 securities after the Otto Wolff Company guaranteed them. In other words, the Bank approved the transactions not because it was assured that they were not looted victim assets, but because it was assured that the Otto Wolff Company would be on the hook, and not SKBA, if later held to account by the Allies.²⁷⁶ The Swiss authorities classified this transaction as "the most questionable from a

²⁷² Joseph Jung, *Zwischen Bundeshaus und Paradeplatz. Die Banken der Credit Suisse Group im Zweiten Weltkrieg* (2001), at 97.

²⁷³ Joseph Jung, *Zwischen Bundeshaus und Paradeplatz. Die Banken der Credit Suisse Group im Zweiten Weltkrieg* (2001), at 99–103; Bergier Commission, Vol. 21, *Schweizerische Bodenkreditanstalt. «Aussergewöhnliche Zeiten bringen aussergewöhnliche Geschäfte»* (2002), at 23–54.

²⁷⁴ Bergier Commission, *Switzerland, National Socialism, and the Second World War. Final Report* (2002), at 267.

²⁷⁵ Bergier Commission, *Switzerland, National Socialism, and the Second World War. Final Report* (2002), at 268–69.

²⁷⁶ Joseph Jung, *Zwischen Bundeshaus und Paradeplatz. Die Banken der Credit Suisse Group im Zweiten Weltkrieg* (2001), at 101.

moral standpoint.”²⁷⁷

Credit Suisse also had to contend with the February 1945 Swiss decrees which froze all German assets in Switzerland, required the banks to report German assets, and empowered the government to investigate closed German accounts, with or without customer participation.²⁷⁸ The Bank’s historical review could not confirm, based on the surviving documentation, the exact number and value of accounts held by Germans at Credit Suisse that were reported to Swiss authorities (*i.e.*, that had over 5,000 Swiss francs), but estimated that reported accounts at SKA, SVB, and Bank Leu totaled 300 million Swiss francs, which would represent about a quarter of all reported German assets in Switzerland.²⁷⁹ The Bank’s historical review did not find any complaints or violation notices regarding German asset decrees from Swiss authorities in Credit Suisse’s archives, and therefore concluded that the process of reporting German accounts went smoothly at Credit Suisse.²⁸⁰ Arthur Andersen—the firm responsible for reviewing the files of Credit Suisse for the Volcker Commission—uncovered one instance in which a director at Credit Suisse predecessor Fides perjured himself and falsified documentation to enable a customer to avoid an asset freeze; the director eventually resigned.²⁸¹

²⁷⁷ Joseph Jung, *Zwischen Bundeshaus und Paradeplatz. Die Banken der Credit Suisse Group im Zweiten Weltkrieg* (2001), at 101.

²⁷⁸ Joseph Jung, *Zwischen Bundeshaus und Paradeplatz. Die Banken der Credit Suisse Group im Zweiten Weltkrieg* (2001), at 150–51. See 5 Foreign Relations of the United States: Diplomatic Papers 785 (1945), Document No. 598; Volcker Report, *Report on Dormant Accounts of Victims of Nazi Persecution in Swiss Banks* (1999), Annex 3, at 52.

²⁷⁹ Joseph Jung, *Zwischen Bundeshaus und Paradeplatz. Die Banken der Credit Suisse Group im Zweiten Weltkrieg* (2001), at 152.

²⁸⁰ Joseph Jung, *Zwischen Bundeshaus und Paradeplatz. Die Banken der Credit Suisse Group im Zweiten Weltkrieg* (2001), at 153.

²⁸¹ Andersen Report, *Final Report on the Second Phase Forensic Accounting Investigation*, July 12, 1999, at 330 ¶¶1.4.5–1.4.6. The Andersen Report noted that legal proceedings were never completed against the director, but he was forced to resign because his actions were contrary to company policy. *Id.* Arthur Andersen had access to this information because it was provided with a database of frozen asset registrations made by Credit Suisse in its investigation. Andersen Report, *Final Report on the Second Phase Forensic Accounting Investigation*, July 12, 1999, at 322 ¶1.2.18.

d. Credit Suisse and Argentina

Credit Suisse's involvement in Argentina during World War II was not a focus of the prior investigations and therefore prior reports made only limited findings as to the Bank's ties to Nazis in Argentina. As reported by the Bergier Commission, Credit Suisse's predecessor entities held significant liabilities on their books for the benefit of Argentine creditors during the war, both in terms of money owed to individual account holders and other Argentine creditors: From 1940 to 1945, SKA had an average of 15 million Swiss francs in liabilities to Argentine creditors.²⁸² Bank Leu and SVB had on average 5 million Swiss francs in liabilities during the same period.

Two Argentine government commissions identified transactions between Nazi-affiliated individuals or entities involving Credit Suisse. A 1941 government commission in Argentina (the "1941 Argentine Commission") issued a report—cited in the Press Release—which detailed two transfers of funds in 1939 to a Credit Suisse account held by Bank der Deutschen Arbeit (the "Bank of German Labor"), an organization which was closely associated with the Nazi party, one of which was from an account held by UAG's predecessor, the Deutsche Arbeitsfront (the "German Labor Front" or "DAF").²⁸³ In addition, the Commission of Enquiry Into Nazi Activities in Argentina ("CEANA"), an Argentine investigation into the World War II-era interactions between Nazis and Argentina in the late 1990s, also identified several transactions ordered by a Nazi party member through Credit Suisse to an Argentine bank with Nazi ties.²⁸⁴

²⁸² Bergier Commission, Vol. 13, *La place financière et les banques suisses à l'époque du national-socialisme. Les relations des grandes banques avec l'Allemagne (1931–1946)* (2002), at 590–92.

²⁸³ Cámara de Diputados de La Nación, Comisión Investigadora de Actividades Antiargentinas, Informe No. 5, Nov. 28, 1941, at 40, 83, 261.

²⁸⁴ Ronald C. Newton & Christel K. Converse, CEANA, Final Report, *Inversiones Nazis in Argentina Utilizando Imprezas Fachada, en Especial los Casos de la Banca Wehrli y las Compañías del Grupo Mandl* (1999), at 21–22. CEANA additionally described an instance in which Friedrich Mandl, an Austrian Nazi who fled to South America, deposited his personal property and assets in his company, a total of 15,000,000 Swiss francs, with a "Schweizerische Bank"; these funds were then seized by the

B. Limitations on Prior Investigative Work

Despite the substantial and valuable contributions of the prior investigations to establishing the historical record, they were not intended to resolve the allegations advanced by SWC that underpin this engagement. Indeed, SWC’s allegations are premised on the prior investigations being neither comprehensive nor conclusive. The usefulness of those investigations to the current engagement is limited by both what they covered and how and when they were conducted.

1. Lack of Focus on Argentine Issues Raised by Current Allegations

At the outset, none of the prior investigations were attempting to answer many of the questions posed by SWC or focused on many of the allegations raised by this engagement—as SWC pointed out to Credit Suisse at their June 2021 meeting as described above in Part I.²⁸⁵ For example, although each of the investigations touched to some degree on these topics, none of them were tasked with investigating, for instance, through a systematic review of bank records, whether Nazi party members in Argentina or members of a Nazi-affiliated union in Argentina held accounts at Credit Suisse, or the extent of the involvement of Swiss banks such as Credit Suisse in providing banking services for participants in the Ratlines after the war.

Credit Suisse recognized this shortcoming by hiring the 2021 Historian to begin the work of addressing the Bank’s historical connections to Argentina and certain other topics.²⁸⁶ The Bank tasked the 2021 Historian with the following activities:

- Provide input on AlixPartners’ forensic review;

Nazis. The report does not clarify whether “Schweizerische Bank” is the same as SKA (Schweizerische Kreditanstalt) or the “Schweizerisch-Argentinische Hypothekenbank,” a Credit Suisse mortgage bank in Argentina. *Id.* at 11.

²⁸⁵ June 29, 2021 Meeting between Credit Suisse and SWC.

²⁸⁶ Email from Credit Suisse to Ombudsperson and Advisor, September 8, 2021; Credit Suisse Counsel Memorandum dated Sept. 8, 2021. The engagement lasted from September 2021 to March 2022. *See* October 13, 2021 Meeting between Ombudsperson, Advisor, and Credit Suisse; March 3, 2022 Meeting between Ombudsperson, Advisor, and Credit Suisse.

- Respond to historical questions raised by Credit Suisse and/or the Independent Ombudsperson; and
- Prepare a written report on the several topics “and potentially others to be defined as the matter evolves,” including (1) background on SKA during the war; (2) background on SKA’s business with Argentina; (3) background on transfers from Argentina to Switzerland; (4) historical research of the allegations asserted in the Press Release; (5) background on the Nazis fleeing Germany to Argentina, their methods of escape, and whether SKA was involved; (6) background on prior historical investigations into Nazi assets; and (7) assess AlixPartners’ findings from a historical perspective.²⁸⁷

Credit Suisse also acknowledged in writing as the 2021 Historian began his work that an “additional historian from Argentina should be retained for all questions regarding Germans in Argentina.”²⁸⁸

The 2021 Historian made initial findings, including information not contained in the prior reports. Credit Suisse provided the Independent Ombudsperson with access to the 2021 Historian through several meetings, in which the 2021 Historian shared his findings.²⁸⁹ As conveyed at those meetings, the 2021 Historian completed and shared a report²⁹⁰ which provided an overview of Swiss banks’ involvement in World War II; Credit Suisse’s involvement in Argentina from 1930 to 1950; findings on the monetary transactions of national socialist groups from Argentina to SKA; and capital movement from Nazi Germany to Argentina through Switzerland.²⁹¹

Through his archival research, the 2021 Historian was able to confirm certain connections between Credit Suisse and Argentina that were relevant to the Press Release, but was not able to complete his work. For example, he conveyed to the Independent Ombudsperson that his

²⁸⁷ Credit Suisse Counsel Memorandum dated Sept. 8, 2021.

²⁸⁸ *Id.* at 2.

²⁸⁹ October 13, 2021 Meeting between Ombudsperson, Advisor, and Credit Suisse; November 17, 2021 Meeting between Ombudsperson, Advisor, and Credit Suisse; March 3, 2022 Meeting between Ombudsperson, Advisor, and Credit Suisse.

²⁹⁰ The Bank refused to make the 2021 Historian’s report available for review in the United States.

²⁹¹ March 3, 2022 Meeting between Ombudsperson, Advisor, and Credit Suisse.

researchers had confirmed through archival research that the Bank of German Labor had an account at SKA.²⁹² The 2021 Historian also remarked that it was well-known that Nazi groups in foreign countries, such as UAG's predecessor DAF, had transferred money back to Germany itself. He also confirmed through archival research that there was a business relationship between Credit Suisse and Banco Germanico de America del Sur, one of the German banks the Press Release identified as being involved in the transfer of Nazi assets to Switzerland.²⁹³ Further, noting that the 1941 Commission had identified two instances of DAF transferring money to SKA, the 2021 Historian explained that he was not able to confirm these particular transfers in his review of Bank records.²⁹⁴

But, due to the short term of his engagement, the 2021 Historian was not able to complete all the tasks Credit Suisse had originally contemplated. For example, he noted that there were additional public sources that may have more information on the Bank of German Labor.²⁹⁵ Although as discussed in Part V below, the Independent Ombudsperson had recommended the Bank include in its forensic review the Bank of German Labor, the Bank did not do so.²⁹⁶ In addition, the 2021 Historian was not able to provide feedback on AlixPartners' forensic review nor the findings of that review. When the 2021 Historian's work concluded, the Bank had still not settled critical aspects of the investigation's methodology, including whether it was necessary to look at additional Credit Suisse predecessor banks beyond SKA. Similarly, the 2021 Historian did not provide input to Credit Suisse on how it would investigate the SWC Leads.

Even as the 2021 Historian's work filled in some of the gaps left by the prior historical

²⁹² November 17, 2021 Meeting between Ombudsperson, Advisor, and Credit Suisse.

²⁹³ *Id.*

²⁹⁴ March 3, 2022 Meeting between Ombudsperson, Advisor, and Credit Suisse.

²⁹⁵ *Id.*

²⁹⁶ Letter from Credit Suisse to Ombudsperson, August 26, 2022 at 4; Letter from Credit Suisse to Ombudsperson, September 20, 2021.

reviews, Credit Suisse recognized that it needed additional support after the 2021 Historian’s research concluded, and sought to retain another historian to complete this work.²⁹⁷ It informed the Independent Ombudsperson that those efforts were unsuccessful, at least in part because no historian with the necessary expertise and credibility was willing to work directly for Credit Suisse.²⁹⁸ The Bank therefore requested that the Independent Ombudsperson retain a historian to assist in these efforts.²⁹⁹ In the spring of 2022, the Independent Ombudsperson was able to secure the retention of the Independent Historian (as defined in Part I above), a World War II scholar and Bergier Commission researcher and contributor. The Ombudsperson also brought on board a Switzerland-based university professor with expertise in the subject matter as an advisor to the Independent Historian. The Independent Historian’s work is further described in Part III below.

As noted, Credit Suisse also stated that it was critical to retain an “additional historian from Argentina” to answer “all questions regarding Germans in Argentina,” including matters of Argentine history, evaluate the UAG and Argentine Nazi Party lists, and conduct further research—acknowledging that the prior work did not adequately cover this ground.³⁰⁰

Given the challenges the Bank was facing with retaining a Swiss historian, the Bank also asked the Independent Ombudsperson for his help in retaining the Argentine historian and provided the Ombudsperson with a list of potential candidates.³⁰¹ One of those candidates was a prominent Argentine author and journalist. After further investigation, the Ombudsperson concluded that this expert was the ideal researcher to conduct this assessment, as he had spent over a decade in various Argentine archives researching the flight of Nazis to Argentina through the

²⁹⁷ December 15, 2021 Meeting between Ombudsperson, Advisor, and Credit Suisse.

²⁹⁸ January 27, 2022 Meeting between Ombudsperson, Advisor, and Credit Suisse.

²⁹⁹ December 15, 2021 Meeting between Ombudsperson, Advisor, and Credit Suisse; Email from Credit Suisse to Ombudsperson and Advisor, January 14, 2022.

³⁰⁰ *Id.* at 2.

³⁰¹ *Id.*

Ratlines, including the Ratlines that ran through Switzerland. In April 2022, with the Bank's consent, the Ombudsperson visited Argentina to gather information about what sources might be available in Argentina to further the Bank's investigation. During that visit, the Ombudsperson met with this expert and he ultimately agreed to work on the project with the Ombudsperson and Advisor; however, as described above in Part I, after Cerutti was replaced as General Counsel, Credit Suisse indicated that it would not authorize payment to retain the expert. Although in the following months the Bank suggested that the expert could be retained to assist with the Bank's investigation of the Ratlines, as detailed in Parts I and III, it never followed through and Credit Suisse ultimately chose not to follow through with its planned investigation of the Bank's involvement with the Ratlines participants.

2. Limitations on Investigations of Nazi Accounts

In addition to not addressing key subjects raised by SWC's allegations, each of the Volcker, Bergier, and Credit Suisse Reports acknowledged that their work was not conclusive on the subject of Nazi accounts at Swiss banks:³⁰²

- As part of the Volcker Commission work, Arthur Andersen matched names of certain Nazis and their aides against names associated with Credit Suisse accounts. But that work did not assess whether the name matches were true identity matches, meaning it did not check whether the Credit Suisse accountholder was actually a Nazi or whether the accountholder was just someone with the same name.³⁰³ As a result, the Volcker Commission explained that "further investigation (by the Bergier Commission) will be necessary to determine the facts" regarding those potential name-matched

³⁰² June 29, 2021 Meeting between Credit Suisse and SWC. Argentina's CEANA investigation was also limited in its methodology. Its researchers did not have access to internal bank records that could be used to conduct a forensic account review or otherwise ascertain whether Nazis in Argentina held accounts at Swiss banks or relied on help from Swiss banks in fleeing Europe. Therefore, it was limited in how it could investigate Credit Suisse's activities in Argentina at the time.

³⁰³ Andersen Report, *Final Report on the Second Phase Forensic Accounting Investigation*, July 12, 1999, at 346 ¶3.4.4. The Bergier Commission found that this was due to a lack of resources and the limits of their mandate. Bergier Commission, Vol. 9, *Tarnung, Transfer, Transit. Die Schweiz als Drehscheibe verdeckter deutscher Operationen (1939–1952)* (2002), at 131.

Nazi accounts, as well as those reported to it by other accounting firms.³⁰⁴

- However, the Bergier Commission deemed doing an in-depth investigation an inefficient use of its limited time and financial resources, and so did not review comprehensively the files of Swiss banks to determine which held accounts of Nazis. To the contrary, the Bergier Report stated that it “was not possible to follow up on [the Volcker Commission’s reported name matches] fully” in order to assess which Nazis had accounts because of those limited resources. Instead, it performed only “some checking.”³⁰⁵ Further, again because of limitations in funding, the Bergier Commission substantially relied on the work of the banks themselves to do the substance of the account review work.
- With regard to Credit Suisse itself, the Bank’s historian acknowledged that he could not review the Bank’s files to determine all the Nazi accounts it might have had because “there is no definitive list of all the people and companies that were involved in the Nazi’s malevolent system.”³⁰⁶ Instead, as detailed below, the Bank’s historical review team compiled a more limited list that unfortunately suffered from shortcomings in its construction and its implementation.

In a June 2021 meeting between SWC and Credit Suisse, SWC had emphasized this point by bringing to the meeting an economist who worked with both the Bergier and Volcker Commissions, as well as on the claims settlement process that was established to compensate Nazi victim heirs who had been denied access to their relatives’ accounts at Swiss banks. According to SWC, she explained the following to the Bank regarding how those prior efforts did not address the questions being raised by SWC:

Unfortunately, while some questions were brought to limited closure, the important question of the size and flow of assets owned by Nazis and Nazi collaborators into or via Switzerland has not even begun to be resolved. The Volcker Committee’s primary focus was on the fate of Holocaust victims’ accounts in Swiss banks. Consequently, it shared with the [Bergier Commission] what the auditors surfaced on Nazi owned assets that might include looted funds. The [Bergier Commission], however, while doing a yeoman’s job in some areas, especially the treatment and

³⁰⁴ Volcker Report, *Report on Dormant Accounts of Victims of Nazi Persecution in Swiss Banks* (1999), Annex 6, at 103–04.

³⁰⁵ Bergier Commission, *Switzerland, National Socialism, and the Second World War. Final Report* (2002), at 380.

³⁰⁶ Joseph Jung, *Zwischen Bundeshaus und Paradeplatz. Die Banken der Credit Suisse Group im Zweiten Weltkrieg* (2001), at 17.

assets of refugees, felt stymied in its efforts to do much more than, on basis of important case studies, to confirm the general importance of this issue. Accordingly, the issue has remained on the table to this day.³⁰⁷

This section further explains why those prior reviews are not a sufficient substitute for conducting an independent investigation into the allegations made by SWC pursuant to this engagement.

a. Volcker Commission

The primary aim of the Volcker Commission was to identify accounts belonging to victims of the Holocaust and their heirs.³⁰⁸ The Volcker Commission—and for Credit Suisse specifically, Arthur Andersen—focused on conducting a review of Credit Suisse’s accounts to identify, value, and assess dormant accounts belonging to victims of Nazi persecution.³⁰⁹ With regard to potential Nazi accounts, the Volcker Commission’s work was limited. Specifically, Arthur Andersen compared a list of 1,934 names of individuals and entities that might have received looted assets, containing the names of certain Nazis and their aides (the same list that Credit Suisse initially agreed to review in this investigation but ultimately did not, as discussed in Part III below), against a database of certain Credit Suisse accountholders.³¹⁰ Arthur Andersen conducted the matching, but because it identified “a significant number of common names” (*i.e.*, accounts under names that

³⁰⁷ June 29, 2021 Meeting between Credit Suisse and SWC.

³⁰⁸ Volcker Report, *Report on Dormant Accounts of Victims of Nazi Persecution in Swiss Banks* (1999), Annex 3, at 44–45.

³⁰⁹ Volcker Report, *Report on Dormant Accounts of Victims of Nazi Persecution in Swiss Banks* (1999), Annex 4, at 60–64. To conduct its work, Arthur Andersen collected a database of records concerning World War II-era Credit Suisse accounts; detail concerning that collection effort are set forth in Part IV below. It then carried out a forensic analysis by comparing the database of Credit Suisse accounts to a list of Nazi victims to determine if the names on the accounts corresponded to victims; where there was a match, it then researched whether the account likely belonged to a victim or if the match was false. Andersen Report, *Final Report on the Second Phase Forensic Accounting Investigation*, July 12, 1999, at 49 ¶1.1.7.

³¹⁰ Andersen Report, *Final Report on the Second Phase Forensic Accounting Investigation*, July 12, 1999, at 346 ¶3.4.4.

are common in Germany and German-speaking Switzerland), it did no further work on the list.³¹¹ Arthur Andersen sent the results of its search to the Volcker Commission, which stated that “further investigatory effort is appropriate to follow leads with respect to . . . looted accounts,”³¹² but the Volcker Commission did not require Arthur Andersen or the other accounting firms to conduct the second stage of the name-matching exercise—verifying if the matches were true identity matches.³¹³ Instead, the Volcker Commission explained that “further investigation (by the Bergier Commission) will be necessary to determine the facts” regarding those potential name-matched Nazi accounts.³¹⁴ This limitation was among the concerns cited by SWC in its June 2021 meeting with Credit Suisse.³¹⁵

b. Bergier Commission

Like Arthur Andersen’s review, the Bergier Commission performed certain investigative tasks related to accounts held by Nazis at Credit Suisse, but its review was limited in ways relevant

³¹¹ Andersen Report, *Final Report on the Second Phase Forensic Accounting Investigation*, July 12, 1999, at 346 ¶3.4.4; Bergier Commission, *Switzerland, National Socialism, and the Second World War. Final Report* (2002), at 380. The Volcker Commission investigation ultimately found 1,662 name matches to known Nazis in Swiss bank records, not limited to those found at Credit Suisse, which it reported to Swiss authorities and then did no additional analysis of. Volcker Report, *Report on Dormant Accounts of Victims of Nazi Persecution in Swiss Banks* (1999), Annex 6, at 103–105.

³¹² Volcker Report, *Report on Dormant Accounts of Victims of Nazi Persecution in Swiss Banks* (1999), at 18.

³¹³ Volcker Report, *Report on Dormant Accounts of Victims of Nazi Persecution in Swiss Banks* (1999), at 16, 18.

³¹⁴ Volcker Report, *Report on Dormant Accounts of Victims of Nazi Persecution in Swiss Banks* (1999), Annex 6, at 103–04. Even insofar as the name-matching was conducted, aspects of it were limited in ways relevant to the Independent Ombudsperson’s work. For instance, Arthur Andersen’s review excluded consideration of accounts that were opened after 1945 or that remained active after 1945, and therefore it would have missed any accounts that were opened by escaping Nazis after the end of the war, or accounts opened by Nazis prior to the end of the war and still active after 1945, when Nazis may have tapped such funds to flee Europe. Andersen Report, *Final Report on the Second Phase Forensic Accounting Investigation*, July 12, 1999, at 34 ¶2.2.44. For example, the Andersen Report stated, “Bank Hofmann currently has two collective accounts with 331 individual customer accounts and a value of CHF 220,141. None of these 331 accounts has an opening date before 1 January 1946.” Andersen Report, *Final Report on the Second Phase Forensic Accounting Investigation*, July 12, 1999, at 148 ¶5.7.8.

³¹⁵ June 29, 2021 Meeting between Credit Suisse and SWC.

to SWC's allegations and the Independent Ombudsperson's work. To investigate accounts held by Nazis at Swiss banks, the Bergier Commission conducted archival research in both public and private archives, as well as oral histories both with bank staff and survivors of Nazi persecution.³¹⁶ It also reviewed the findings of the Volcker Commission and the Bank's historical review, and supplemented them with its findings from its own archival research.³¹⁷ It then noted where its review of historical documents, such as German records, revealed that Nazis had accounts at the Swiss banks. For instance, in the case of Credit Suisse, the Bergier Commission noted an additional three Nazi names not identified by the Bank's historical review, but which the Commission's review of German records revealed likely had relationships with Credit Suisse.³¹⁸

With regard to the list of 1,662 Nazi and Nazi-affiliated names that the Volcker Commission referred to the Bergier Commission for further review, the Bergier Commission did not comprehensively investigate whether all those listed actually had accounts at Swiss banks, given the Commission's multiple areas of investigation and available resources. Instead, it conducted "some checking" of the matches to determine whether they were true matches.³¹⁹ The Commission noted that the spot checking resulted in finding "highly relevant connections with representatives of the Nazi economy" (although "no prominent Nazis came to light"),³²⁰ indicating

³¹⁶ Bergier Commission, *Switzerland, National Socialism, and the Second World War. Final Report* (2002), at 37–44. The instituting decree ordered that none of the banking secrecy or other laws limiting access to protected information would apply to the Commission, and all relevant Swiss companies were banned from destroying any relevant files. Bundesratsbeschluss betreffend Einsetzung der unabhängigen Expertenkommission, Dec. 19, 1996, Articles 4 and 5(2).

³¹⁷ See, e.g., Bergier Commission, Vol. 9, *Tarnung, Transfer, Transit. Die Schweiz als Drehscheibe verdeckter deutscher Operationen (1939–1952)* (2002), at 129–31.

³¹⁸ Bergier Commission, Vol. 9, *Tarnung, Transfer, Transit. Die Schweiz als Drehscheibe verdeckter deutscher Operationen (1939–1952)* (2002), at 151.

³¹⁹ Bergier Commission, *Switzerland, National Socialism, and the Second World War. Final Report* (2002), at 380.

³²⁰ Bergier Commission, *Switzerland, National Socialism, and the Second World War. Final Report* (2002), at 380.

that more analysis may have uncovered additional results.³²¹

The Bergier Commission did not perform additional investigatory work on a list of potential Swiss intermediaries to verify if they were holding assets in Swiss banks accounts for Nazis.³²² The Volcker Commission had reported matches between accounts and intermediaries to the Bergier Commission for further analysis. But, the Bergier Commission did not take action on the results of that report, due to the high volume of matches, which encompassed results not just from Credit Suisse but from all of the Swiss banks. The Commission was thus unable, given its limited resources and time, to determine whether the intermediaries were representing German interests.³²³ The Bergier Commission's work thus left open important questions as to the Bank's relationships with these intermediaries, as discussed below.

c. Credit Suisse's Historical Review

Credit Suisse's historical review considered the question of whether certain prominent Nazis had accounts at Credit Suisse, but through the current investigation, it has become clear that this prior work was insufficient to address SWC's allegations. In particular, as is further described in Parts III and V below, the current investigation has uncovered that Credit Suisse had accounts for a number of prominent Nazis that the Bank's prior review failed to either find or disclose.

Credit Suisse's historical review team's process for undertaking that prior investigation had some material flaws. To start, they compiled a list of certain Nazi names (described in more detail below), and then compared the names on that list to the names of accountholders at some of

³²¹ Bergier Commission, Vol. 9, *Tarnung, Transfer, Transit. Die Schweiz als Drehscheibe verdeckter deutscher Operationen (1939–1952)* (2002), at 134; see also Part III.

³²² Bergier Commission, *Switzerland, National Socialism, and the Second World War. Final Report* (2002), at 380.

³²³ Bergier Commission, Vol. 9, *Tarnung, Transfer, Transit. Die Schweiz als Drehscheibe verdeckter deutscher Operationen (1939–1952)* (2002), at 134 & n.109. The Bergier Commission never received the list of intermediaries used by the Volcker Commission to conduct the matching exercise. See *id.* at 131 n.101.

Credit Suisse predecessor banks. To confirm a match, they reviewed personal information such as birth date and domicile to see if they corresponded; they only further evaluated and reported on “unquestionable” relationships.³²⁴ But, as discussed below, that procedure did not uncover all potential significant Nazi and Nazi-affiliated accounts at Credit Suisse due to the brevity of the list of Nazi names that the Bank’s historical review team used, their limitations on the accounts searched, and their narrow conception of “unquestionable” matches, in addition to at least one basic error that the Independent Ombudsperson uncovered in the work he was able to perform.

Unfortunately, almost immediately after the import of such errors started to be uncovered, Cerutti was replaced as General Counsel and the new leadership over the investigation put the Independent Ombudsperson’s access to new data from the Bank on “hold,” and eventually terminated oversight, preventing from further scrutiny the potential flaws of the Bank’s historical review or the extent to which it undercounted the Bank’s ties to high-ranking Nazis. Further detail regarding the shortcomings of the historical review the Bank conducted as part of the 1990s investigations are set forth in this section.

i. List of Nazi Names

The list that Credit Suisse’s historical review team compiled in the 1990s to conduct their searches was limited in several important ways, and as a result, there could have been—as the review itself acknowledged—“[t]housands of associates, accomplices, main and subcontractors in less prominent positions” who were not on the Bank’s list and who could have had Credit Suisse accounts the Bank’s historical review missed.³²⁵

First, as noted above, Credit Suisse’s historical review investigated a limited list of Nazis

³²⁴ Joseph Jung, *Zwischen Bundeshaus und Paradeplatz. Die Banken der Credit Suisse Group im Zweiten Weltkrieg* (2001), at 144.

³²⁵ Joseph Jung, *Zwischen Bundeshaus und Paradeplatz. Die Banken der Credit Suisse Group im Zweiten Weltkrieg* (2001), at 144, 184 n.533.

for the purposes of matching those names to accounts. The review included 460 individual Nazi names, consisting of:

- The 1997 SWC List comprised of, as described by SWC, the “leaders of the Nazi party, the SS, the leading industrialists who carried out the slave labor program, the bankers who financed Hitler, the concentration camp elite, the men and women who plundered Europe’s priceless art treasures, as well as some of the important women in the Reich who had the ability to open such accounts”³²⁶ and
- A list of those accused in the Nuremberg trials (the Nuremberg List).

In addition, Credit Suisse’s historical review used a list of 662 names of companies derived from historian Christopher Simpson’s list of German companies “reported to be active in exploitation of forced labor during the Third Reich,” and entity lists prepared by three other academics.³²⁷

Credit Suisse’s historical review team’s goal was not to compile a broad list of as many names of Nazis as possible, and they acknowledged that the list they used contained “*only a representative selection* of the most important persons and companies in the National Socialists’ circle of influence,” and therefore did not include many other people and entities associated with Nazis.³²⁸ For instance, Alois Miedl, a German-Dutch banker and art dealer who supplied Hermann

³²⁶ Letter from SWC to President of the Confederation of Switzerland, February 12, 1997. SWC’s list includes 334 names. Joseph Jung, *Zwischen Bundeshaus und Paradeplatz. Die Banken der Credit Suisse Group im Zweiten Weltkrieg* (2001), at 144. The Bank’s historical review noted that the criteria used to prepare this list “are not in all cases transparent,” notably the extent to which it includes “the names of relatives and employees of senior Nazi officials and the names of potential asset flight masterminds.” Joseph Jung, *Zwischen Bundeshaus und Paradeplatz. Die Banken der Credit Suisse Group im Zweiten Weltkrieg* (2001), 144, 184 n.537.

³²⁷ Joseph Jung, *Zwischen Bundeshaus und Paradeplatz. Die Banken der Credit Suisse Group im Zweiten Weltkrieg* (2001), at 144, 146. A total of 201 people were accused during the Nuremberg trials of perpetrating Nazi war crimes. Joseph Jung, *Zwischen Bundeshaus und Paradeplatz. Die Banken der Credit Suisse Group im Zweiten Weltkrieg* (2001), at 144. The Bank’s historical review team subtracted 75 names included on both lists to prepare its final list of 460 names. Joseph Jung, *Zwischen Bundeshaus und Paradeplatz. Die Banken der Credit Suisse Group im Zweiten Weltkrieg* (2001), at 144.

³²⁸ Joseph Jung, *Zwischen Bundeshaus und Paradeplatz. Die Banken der Credit Suisse Group im Zweiten Weltkrieg* (2001), at 144, 184 n.533.

Göring with stolen works of art, was not on the Bank's lists. Nor was Friedrich Schwend, an SS officer involved with a large counterfeiting operation of British pounds and with the financing of Nazi Ratlines out of Europe. As discussed in Part III below, the Independent Ombudsperson found external evidence that suggests that both may have held accounts at Credit Suisse,³²⁹ but the Ombudsperson was not given access to the Bank's records so that he could verify the existence of any surviving documents to confirm this evidence.

As a result, Credit Suisse's list was shorter than lists used by others conducting investigations into Nazi ties to other Swiss banks at the time. For example, the Volcker Commission compiled a list of nearly double the names used by the Bank's historical review (1,934 names, including both individual Nazis and their aides and entities) of "persons who potentially acquired looted assets,"³³⁰ which included senior Nazi officials and European Nazi collaborators.³³¹ According to the Bergier Commission, the Union Bank of Switzerland ("UBS") used a list of "several tens of thousands of names" for name matching in its own investigation.³³²

Second, Credit Suisse's historical review did not conduct an analysis of potential intermediary accounts—that is, accounts in the name of Swiss fiduciaries, but of which Nazis were

³²⁹ As discussed in more detail, *see* Part III, these two names appear as clients of the SKA and Bank Leu after the war. Liechtenstein Commission, Vol. 3/II, *Liechtensteinische Finanzbeziehungen zur Zeit des Nationalsozialismus* (2005), at 433–34, 607.

³³⁰ Volcker Report, *Report on Dormant Accounts of Victims of Nazi Persecution in Swiss Banks* (1999), Annex 6, at 103; Andersen Report, *Final Report on the Second Phase Forensic Accounting Investigation*, July 12, 1999, at 346 ¶3.4.4.

³³¹ Volcker Report, *Report on Dormant Accounts of Victims of Nazi Persecution in Swiss Banks* (1999), at 16. The Andersen Report broke down the list as including German owned firms in Switzerland and Liechtenstein, Swiss companies allegedly owned by Germans, Senior Nazi officials, officials in German financial institutions, European Nazi collaborators, galleries and dealers allegedly receiving looted art, German owned firms or German individuals in Switzerland, banks and finance companies allegedly hiding German accounts, enemy accounts in Switzerland, and individuals who allegedly transferred accounts to Swiss banks. Andersen Report, *Final Report on the Second Phase Forensic Accounting Investigation*, July 12, 1999, at 346 ¶3.4.4.

³³² Bergier Commission, Vol. 9, *Tarnung, Transfer, Transit. Die Schweiz als Drehscheibe verdeckter deutscher Operationen (1939–1952)* (2002), at 151. The Bergier Commission did not explain the sources of UBS's list, which is described further in Part III below.

the beneficial owners—and therefore could have missed assets controlled by Nazis but camouflaged by Swiss intermediaries. As the Bergier Commission noted, it is “obvious that high-ranking Nazi functionaries . . . did not personally transfer funds to Switzerland and invest them under their own name, but rather used inconspicuous and trustworthy intermediaries.”³³³ However, the Bank did not conduct any name matching analysis of a list of 4,025 potential intermediaries provided by the Volcker Commission.³³⁴ The Bank’s historical review team observed that because intermediaries would generally invest their client’s assets in their own names, and the Bank had no obligation to identify the beneficial owner, the Bank would not have known whether any beneficial owners were Nazis, and it was “no longer possible today to retroactively ascertain the identity of all the beneficial owners at the time.”³³⁵ Separately from the list of intermediaries identified by the Volcker Commission, the Bergier Commission also identified certain individual intermediaries who were particularly likely to have held accounts for Nazis.³³⁶ The Bank’s historical review team did not extend their investigation to investigate the intermediaries identified by the Bergier Commission.

Other banks did act on the information provided by the Bergier Report: For example, after the Bergier Commission published its volume on securities, UBS carried out a name matching

³³³ Bergier Commission, Vol. 9, *Tarnung, Transfer, Transit. Die Schweiz als Drehscheibe verdeckter deutscher Operationen (1939–1952)* (2002), at 134. The Bergier Commission did observe the difficulty of determining whether intermediaries actually held accounts in the name of Nazis. Bergier Commission, Vol. 9, *Tarnung, Transfer, Transit. Die Schweiz als Drehscheibe verdeckter deutscher Operationen (1939–1952)* (2002), at 134 n.109.

³³⁴ The Volcker Commission’s list of potential intermediaries primarily contained the names of all lawyers registered with the Federation of Swiss Lawyers who practiced from 1933 through 1945. See Volcker Report, *Report on Dormant Accounts of Victims of Nazi Persecution in Swiss Banks* (1999), Annex 6, at 102.

³³⁵ Joseph Jung, *Zwischen Bundeshaus und Paradeplatz. Die Banken der Credit Suisse Group im Zweiten Weltkrieg* (2001), at 144, 184 n.535.

³³⁶ See generally Bergier Commission, Vol. 14, *Schweizerische Wertpapiergeschäfte mit dem «Dritten Reich»: Handel, Raub und Restitution* (2002) (discussing securities stolen by Nazis and identifying intermediaries).

exercise based on intermediaries identified in that report and uncovered two additional Nazi-associated accounts that UBS then reported to the Bergier Commission.³³⁷ Credit Suisse did not do the same.

ii. Limitations of Credit Suisse Search

The most significant evidence of the limitations of the historical reviews is the current investigation itself. In Credit Suisse's preliminary findings, as discussed in further detail in Part III, the Bank uncovered additional accounts of Nazis on both the 1997 SWC and Nuremberg Lists that were not found or disclosed by its prior reviews. Unfortunately, the Bank did not disclose to the Independent Ombudsperson or Advisor the full results of its review, including all of the account holders' names or the total number of newly found accounts.³³⁸ The Bank also did not disclose why these accounts were missed or how they were subsequently found, nor did the Bank allow the Ombudsperson to independently evaluate why this discrepancy might have occurred. Nevertheless, some apparent additional flaws of the Bank's historical review, set forth below, may explain why these and other potentially relevant accounts may not have been found or disclosed during the Bank's historical review.

(a) Credit Suisse Accounts Searched

Credit Suisse's historical review did not consider the full scope of available account records when conducting the name matching exercise.

These exclusions encompassed accounts held by individuals and entities (*i.e.*, companies). For entity accounts, the investigation was restricted to accounts open from 1933 to 1945,³³⁹

³³⁷ Bergier Commission, Vol. 9, *Tarnung, Transfer, Transit. Die Schweiz als Drehscheibe verdeckter deutscher Operationen (1939–1952)* (2002), at 151 & n.168.

³³⁸ See Part III.

³³⁹ Joseph Jung, *Zwischen Bundeshaus und Paradeplatz. Die Banken der Credit Suisse Group im Zweiten Weltkrieg* (2001), at 146–47, 186 n.552.

therefore missing potential entity accounts associated with Nazis opened or active after 1945, when Nazis may have needed funds to go into hiding. Credit Suisse's historical review also limited its entity review to clients domiciled in Germany (excluding companies that operated in Germany but were domiciled elsewhere)³⁴⁰ and apparently limited the search for individual Nazis to only the accounts of German individuals.³⁴¹ This would have excluded non-German Nazis, certain entities or individuals that may have acted as intermediaries or otherwise been associated with Nazis but were not German themselves, high-level Nazi collaborators from German-controlled or allied territories, or those who assisted Nazis' escape Europe through the Ratlines.

In addition to these parameters, Credit Suisse's historical review also conducted an account review at only two of Credit Suisse's predecessor banks, SKA and SVB. The historical review team did not examine accounts at Credit Suisse predecessor banks Bank Leu or SBKA because the team stated no customer list was available,³⁴² even though the Volcker Commission had created customer lists for both predecessor banks.³⁴³ The Bank's historical review also did not consider the Fides archives, although that company was active in the 1940s.³⁴⁴ Finally, the Bank's study

³⁴⁰ Joseph Jung, *Zwischen Bundeshaus und Paradeplatz. Die Banken der Credit Suisse Group im Zweiten Weltkrieg* (2001), at 147, 186 n.553.

³⁴¹ Although this is not clear from the Bank's report, this conclusion arises from the investigation of Nazi customers being a subset of a broader Bank study on German accountholders. See Joseph Jung, *Zwischen Bundeshaus und Paradeplatz. Die Banken der Credit Suisse Group im Zweiten Weltkrieg* (2001), at 67–189.

³⁴² Joseph Jung, *Zwischen Bundeshaus und Paradeplatz. Die Banken der Credit Suisse Group im Zweiten Weltkrieg* (2001), at 144, 184 n.534 (“[N]o similar complete customer cards or corresponding sources were available.”). However, the Bank's historical review did other archival research at Credit Suisse's other predecessor entities, such as Bank Leu, SBKA, and Fides, but not an account review. Joseph Jung, *Zwischen Bundeshaus und Paradeplatz. Die Banken der Credit Suisse Group im Zweiten Weltkrieg* (2001), at 12.

³⁴³ Andersen Report, *Final Report on the Second Phase Forensic Accounting Investigation*, July 12, 1999, at 153 ¶¶6.1.18–6.1.20, 161 ¶6.4.1. Arthur Andersen noted that it found customer names for other Credit Suisse banks using its own archival research because “registry cards” were only available for SVB and SKA. Andersen Report, *Final Report on the Second Phase Forensic Accounting Investigation*, July 12, 1999, at 158 ¶¶6.3.9–6.3.11, 166 ¶6.4.1, 170–71 ¶¶6.4.51–6.4.57.

³⁴⁴ Liechtenstein Commission, Vol. 3/I, *Liechtensteinische Finanzbeziehungen zur Zeit des Nationalsozialismus* (2005), at 61–62.

did not take into account another predecessor bank, the Bank in Zürich, which was entirely controlled by SKA and which the Bergier Commission explained was used by SKA “to keep [shares of companies] out of its profile,” and to maintain accounts for a company belonging to the main Swiss arms dealer to Nazi Germany.³⁴⁵ Given how the Bergier Commission found that each of these banks and the fiduciary company Fides were implicated in Nazi activities³⁴⁶ these omissions from the Bank’s historical review excluded potentially relevant accounts.

(b) Limited Name Matching Protocol

Credit Suisse’s historical review’s restrictive standard for what was viewed as a name match also potentially led to the exclusion of relevant accounts.

Credit Suisse set thresholds to determine identity matches that were more restrictive than the Bank’s current investigation, which presumably led to the investigation of more name matches than what was historically reviewed. For instance, the Bank’s historical review only subjected a Nazi identity match to further research if the match was, in the researchers’ subjective view, “unquestionable,”³⁴⁷ whereas, as discussed below, the Bank’s current investigation, at least for the portion over which the Independent Ombudsperson had oversight, investigated matches where they were based on “plausible facts,”³⁴⁸ a potentially more forgiving standard that presumably would have led to a more fulsome investigation.

Credit Suisse’s historical review was also limited by the technology of the time (as were all the investigations). Since the 1990s, forensic technology has advanced in several ways that

³⁴⁵ Bergier Commission, Vol. 13, *La place financière et les banques suisses à l’époque du national-socialisme. Les relations des grandes banques avec l’Allemagne (1931–1946)* (2002), at 338, 343, 405.

³⁴⁶ Bergier Commission, Vol. 13, *La place financière et les banques suisses à l’époque du national-socialisme. Les relations des grandes banques avec l’Allemagne (1931–1946)* (2002), at 338, 343, 405; see generally Part II.

³⁴⁷ Joseph Jung, *Zwischen Bundeshaus und Paradeplatz. Die Banken der Credit Suisse Group im Zweiten Weltkrieg* (2001), at 144.

³⁴⁸ See Part V.

facilitate account review. Advancements in the quality of optical recognition—the ability of computers to recognize and convert images into machine-readable text—and of artificial intelligence to identify full and partial name matches allow for better mechanical investigation of the accounts. In addition, the movement to digital storage of information in databases has allowed for easier digesting and analyzing of results, reducing human error. Further, the amount of accessible archival information regarding individuals has greatly increased through online databases and other digitized archives, making it easier to identify or rule out potential name matches as Nazis or their collaborators.

(c) Questions Regarding Disclosure to the Bergier Commission

Finally, Credit Suisse’s current investigation has indicated that the Bank’s historical investigation may not have been fully candid in disclosing its results, including to the Bergier Commission. As discussed above and in Part III below, documents found in the current investigation show that at the time of the Bank’s historical investigation, the Bank possessed a document indicating the existence of at least one Nazi-affiliated account that it did not disclose to the Bergier Commission: a likely DWB-affiliated account controlled by an SS officer that the Bergier Commission apparently had specifically asked the Bank about. This is discussed further in Part III below.

III. INVESTIGATION OF THE SWC LEADS

In the months that followed Credit Suisse's June 2021 retention of Barofsky and Forman as Independent Ombudsperson and Advisor, they both met repeatedly with SWC and its attorneys at the Bank's request. As described above in Part I, in those meetings, among other things, Barofsky and Forman relayed to SWC the Bank's cooperation to date and walked through the various provisions in their engagement letters that guaranteed their independence. According to SWC, these efforts provided SWC with the comfort necessary to share the evidence, leads, and other information regarding Credit Suisse's Nazi ties that the organization had previously declined to provide directly to the Bank. Accordingly, on October 2021, following Credit Suisse's encouragement that it should share information with Barofsky and Forman "confidentially," SWC entered into a non-disclosure agreement ("NDA") with the Ombudsperson and Advisor.³⁴⁹ In turn, following the framework set forth in his Engagement Letter, Barofsky agreed that he would evaluate that information to make a determination as to whether, in light of the evidence reviewed, he believed it was necessary for Credit Suisse to expand the scope of its investigation to cover the investigative topics SWC's claims encompassed, and then seek the Bank's agreement to do so.³⁵⁰

Pursuant to the NDA, which was entered into with Credit Suisse's authorization and approval, SWC provided Barofsky and Forman with evidence and information to support additional areas of inquiry, including the names of Nazi-related individuals and entities that SWC said had ties to Credit Suisse.³⁵¹ After Barofsky evaluated this information and came to the determination that it necessitated an expanded investigation by Credit Suisse, SWC gave its

³⁴⁹ October 22, 2021 Non-Disclosure Agreement.

³⁵⁰ Engagement Letter at Sec. I(f); October 25, 2021 Meeting between SWC, Ombudsperson, and Advisor.

³⁵¹ Letter from Credit Suisse to SWC, July 21, 2021, at 1; October 7, 2021 Call between Ombudsperson and Credit Suisse; Email from Ombudsperson to Credit Suisse and Advisor, October 10, 2021; October 25, 2021 Meeting between SWC, Ombudsperson, and Advisor.

consent under the NDA for Barofsky to share some of this information with the Bank.³⁵²

In November 2021, Barofsky and Forman presented to Credit Suisse the information that SWC authorized them to share and described the additional efforts they deemed necessary to expand the scope of the Bank's investigation and their oversight.³⁵³ In December 2021, Credit Suisse told Barofsky and Forman that its Executive Board had agreed to undertake those additional efforts, and encouraged them to inform SWC that the Bank had agreed to do so. The Bank and the Ombudsperson team then worked hand in glove to devise a plan for carrying out that work with Barofsky and Forman's oversight.³⁵⁴

The work on the SWC Leads did not commence immediately, though, as Credit Suisse chose to first finalize the work that it was already working on in connection with its investigation into the allegations contained in the SWC Press Release. But by the Spring of 2022, it had turned to the SWC Leads, and the findings that Credit Suisse has shared from just the preliminary stages of its investigation into them underscore the importance of that work. For example, beginning in mid-April of 2022, at regularly scheduled oversight meetings with the Independent Ombudsperson and Advisor, the Bank began to provide written and oral presentations regarding evidence it had uncovered of a previously undisclosed SKA account, including its account number, which was controlled by a senior SS officer who the Bank later described as a representative of DWB, a holding company for numerous SS companies.³⁵⁵ The Bank also disclosed that it had discovered what it described as previously unknown details about the Bank's actions that helped a Nazi

³⁵² Email from SWC to Ombudsperson, November 15, 2021.

³⁵³ November 17, 2021 Meeting between Ombudsperson, Advisor, and Credit Suisse.

³⁵⁴ December 14-15, 2021 Meetings between Ombudsperson, Advisor, and Credit Suisse; December 17, 2021 Call between SWC, Ombudsperson, and Advisor.

³⁵⁵ April 13, 2022 Ongoing Research Update Presentation at 19; May 18, 2022 Ongoing Research Update Presentation at 6; Letter from Credit Suisse to Ombudsperson, August 26, 2022, at 6; Bergier Commission, Vol. 9, *Tarnung, Transfer, Transit. Die Schweiz als Drehscheibe verdeckter deutscher Operationen (1938–1952)* (2002), at 164-65.

businessperson shield significant assets from seizure, and how Credit Suisse later used the company as one of its sources to pay bonuses to Bank executives.³⁵⁶ Credit Suisse, including its then-General Counsel Romeo Cerutti, noted the importance of these findings and pledged to follow up on them with the Ombudsperson and Advisor's oversight. But those efforts ceased in June 2022, when the Bank installed new leadership over the investigation who put on "hold" the Ombudsperson's access to materials that were necessary for such follow-up.³⁵⁷

Later, as part of the months-long discussions regarding resumption of the Independent Ombudsperson's oversight (as detailed above in Part I), the Bank disclosed that it had, without any oversight, proceeded to conduct some investigation of the 1997 SWC List of prominent Nazi officials, industrialists and bankers described above in Part II, and had found newly identified and previously undisclosed Nazi accounts.³⁵⁸ These Nazi accounts were apparently not found during the investigation that the Bank originally conducted into the list in the 1990s, as described above in Part II. Although the Bank failed to identify the number of newly found Nazi accounts or their identity, based on the context of its disclosure, it appears at least three additional accounts were found, and potentially more.³⁵⁹

This Part of the Report provides an overview of the leads obtained from SWC and Credit Suisse's subsequent agreement to expand the scope of the Bank's investigation to include them with full oversight by the Independent Ombudsperson and Advisor. Next, it reviews the details of

³⁵⁶ April 13, 2022 Meeting between Ombudsperson and Credit Suisse; April 13, 2022 Ongoing Research Update Presentation at 5-8; May 18, 2022 Meeting between Ombudsperson and Credit Suisse.

³⁵⁷ June 15, 2022 Meeting between Ombudsperson and Credit Suisse; July 20, 2022 Meeting between Ombudsperson, Credit Suisse, and Advisor; Email from Credit Suisse to Ombudsperson, November 8, 2022.

³⁵⁸ List of Senior Nazi Officials, Leaders of the SS and the Concentration Camps, Industrialists and Bankers Who May Have Transferred Looted Assets to Neutral Countries Compiled by the SWC; Letter from SWC to the Confederation of Switzerland, February 12, 1997, at 1.

³⁵⁹ Letter from Credit Suisse to Ombudsperson, August 26, 2022, at 6.

Credit Suisse's initial findings once it began investigating SWC's leads, to the extent that the Bank shared those findings with the Ombudsperson and Advisor before terminating their access. Finally, it describes certain additional evidence found by the Ombudsperson of inadequacies in the prior investigations' work that further demonstrates the need for Credit Suisse to follow through on its initial agreement to conduct an expanded investigation.

A. The Identification and Presentation of Additional Leads for Investigation

As detailed above in Part I, Credit Suisse's mandate to the Independent Ombudsperson included working to obtain from SWC potential leads for investigation. The development of those leads required, at the Bank's request, Barofsky and Forman interfacing with SWC's principals and lawyers to explain their roles and independence, and then negotiating the terms under which SWC would be willing to share information with them. During this time the Ombudsperson also worked, again at the Bank's specific request, to engage historians who could assist in reviewing Credit Suisse's work, assessing the SWC Leads, and providing additional context or potential leads to ensure a thorough and independent review.³⁶⁰

Barofsky and Forman met with Credit Suisse executives and their advisors on November 17, 2021, to provide information about the leads and information they had obtained from SWC and were authorized to share.³⁶¹ Barofsky described the additional areas that he deemed necessary to investigate based on those leads, Forman shared his concurrence, and they made recommendations on how the Bank should implement the expansion of the scope of the investigation should the Bank agree to do so.³⁶²

The additional areas that Barofsky determined the Bank needed to investigate based on his

³⁶⁰ See *supra* Part I.

³⁶¹ November 17, 2021 Meeting between Ombudsperson, Advisor, and Credit Suisse.

³⁶² *Id.*

review of the information that SWC had shared with him were additional Nazi lists, Ratlines participants and facilitators, and other Nazi and Nazi-related claims.

1. Additional Nazi Lists

Prior to the retention of the Independent Ombudsperson and Advisor, SWC had informed Credit Suisse that a focus solely on Nazis in Argentina and members of the Nazi-affiliated union in Argentina would not be sufficient to allay SWC's concerns and address Credit Suisse's historical ties to Nazis.³⁶³ In particular, SWC emphasized to Credit Suisse that the Bank needed to do more to account for Nazi assets it had held more generally.³⁶⁴

One of SWC's concerns was that the Bank had not done enough to investigate the Bank's ties to Nazis on the 1997 SWC List or the list of Nazis who were prosecuted at Nuremberg, as well as additional Nazis that SWC had since identified as potentially having accounts at Credit Suisse.³⁶⁵ SWC originally sent its 1997 list to the Swiss Government with the request that the government and the Swiss Bankers' Association initiate "a thorough search of all records of the Swiss banks operating during WWII to ascertain whether any of the individuals on this list held a Swiss bank account or safety deposit box from 1938 on."³⁶⁶ It asked that SWC be told: "If an account was opened, what is its current status? If it was closed and the money withdrawn, when and by whom? If the funds were transferred to another country, which country and which bank?"³⁶⁷ Although the Bank had reviewed the list, as discussed above in Part II, it never reported those results directly to SWC. SWC's distrust of the Bank's prior investigative efforts was fueled in part by the Bank's previous failure to share its methodology or the results of that review with

³⁶³ June 29, 2021 Meeting between Credit Suisse and SWC; Letter from SWC to Credit Suisse, July 2, 2021, at 1.

³⁶⁴ June 29, 2021 Meeting between Credit Suisse and SWC.

³⁶⁵ November 17, 2021 Meeting between Ombudsperson, Advisor, and Credit Suisse.

³⁶⁶ Letter from SWC to the Confederation of Switzerland, February 12, 1997, at 1-2.

³⁶⁷ *Id.* at 2.

SWC, and in part by a concern that Credit Suisse, having previously been suspected by the Bergier Commission of destroying account records related to Nazis on these lists,³⁶⁸ might once again do so.³⁶⁹ SWC provided evidence to the Ombudsperson that indicated its belief that these prior efforts may have been insufficient, and sought to have these lists fully investigated, using modern forensic methods,³⁷⁰ and SWC has now made it clear that it only shared its leads after the Bank “offered Barofsky and Forman as guardrails,” to ensure that SWC’s sources would be protected and the Bank would not “destroy evidence.”³⁷¹

In addition, SWC believed that if Credit Suisse was serious about reckoning with its past, it needed to at least match the efforts of its peers in Switzerland, including searching the same lists of tens of thousands of names of Nazis that the Bergier Commission had stated that UBS had done.³⁷² Further, SWC also sought to ensure that the Bank had adequately researched the list of approximately 1,900 names of Nazis and their aides compiled by the Volcker Commission.³⁷³

After hearing from SWC, the Independent Ombudsperson determined that it was necessary for Credit Suisse to investigate these topics further and agreed with SWC that Credit Suisse should

³⁶⁸ Bergier Commission, *Switzerland, National Socialism, and the Second World War. Final Report* (2002), at 381; Bergier Commission, Vol. 9, *Tarnung, Transfer, Transit. Die Schweiz als Drehscheibe verdeckter deutscher Operationen (1938–1952)* (2002), at 169.

³⁶⁹ June 30, 2021 Call between Ombudsperson and Credit Suisse; August 20, 2021 Call between Ombudsperson and SWC; October 25, 2021 Meeting between SWC, Ombudsperson, and Advisor; November 17, 2021 Meeting between Ombudsperson, Advisor, and Credit Suisse.

³⁷⁰ October 25, 2021 Meeting between SWC, Ombudsperson, and Advisor; November 17, 2021 Meeting between Ombudsperson, Advisor, and Credit Suisse.

³⁷¹ Call between SWC and Ombudsperson, December 14, 2022.

³⁷² November 17, 2021 Meeting between Ombudsperson, Advisor, and Credit Suisse; Bergier Commission, Vol. 9, *Tarnung, Transfer, Transit. Die Schweiz als Drehscheibe verdeckter deutscher Operationen (1938–1952)* (2002), at 151 (“UBS also used various other lists containing several tens of thousands of names.”).

³⁷³ Andersen Report, *Final Report on the Second Phase Forensic Accounting Investigation*, Jul. 12, 1999, at 346 (1,934 Nazis and their aides); November 17, 2021 Meeting between Credit Suisse, Ombudsperson, and Advisor. SWC’s counsel had also previously expressed concern to the Bank that Volcker’s independent auditors had informed the Bank about specific accounts of suspect lineage, and that the Bank had done nothing to identify these accounts and divest itself of any assets related to these accounts. June 29, 2021 Meeting between Credit Suisse and SWC.

use the modern forensic processes that it was already using with respect to the Press Release lists to search for accounts held by other historically significant Nazis, including those specifically identified by SWC to the Ombudsperson. The Ombudsperson thus sought the Bank's agreement, consistent with the terms of the Engagement Agreement, to expand the scope of its investigation to cover the following areas:

First, the Independent Ombudsperson found that it was necessary for the Bank to re-examine the lists of Nazis reviewed by the Bank in the 1990s—*i.e.*, the 1997 SWC List and the Nuremberg List.³⁷⁴ Because Credit Suisse had retained AlixPartners and already expended the resources to build and devise a forensic review process—which included more sources of data and fewer restrictions than the Bank's historical review—the Ombudsperson recommended the lists used in the Bank's historical review, including the 1997 SWC List, be run through that forensic review process with Ombudsperson and Advisor oversight.³⁷⁵ Given that the forensic platform had already been used to investigate tens of thousands of names and name variants in connection with the SWC Press Release Investigation, as discussed further in Part V below, the 460 names on the SWC and Nuremberg Lists seemed to be a modest task for the Bank to undertake, relative to the work already undertaken.³⁷⁶

Second, the Independent Ombudsperson found that it was necessary for Credit Suisse to review the lists compiled by UBS and the Volcker Commission, and recommended that the same forensic analysis be applied.³⁷⁷ Later on, as described further below, the Ombudsperson agreed that these searches could be deprioritized given technical issues with those lists and after the Bank

³⁷⁴ November 17, 2021 Meeting between Ombudsperson, Advisor, and Credit Suisse.

³⁷⁵ November 17, 2021 Meeting between Ombudsperson, Advisor, and Credit Suisse; January 27, 2022 Meeting between Ombudsperson, Advisor, and Credit Suisse. The account review process is described in further detail in Part V below.

³⁷⁶ December 14, 2021 Meeting between Ombudsperson, Advisor, and Credit Suisse.

³⁷⁷ November 17, 2021 Meeting between Ombudsperson, Advisor, and Credit Suisse.

stated that it would favor other aspects of the review.³⁷⁸

Third, the Independent Ombudsperson found it necessary for Credit Suisse to include in its investigation the names of eleven particular Nazis and Nazi-related individuals and entities that SWC authorized the Ombudsperson to disclose to Credit Suisse for further investigation.³⁷⁹ For example, the Ombudsperson identified the SS holding company DWB as an entity with apparent connections to the Bank that should be further researched.³⁸⁰

2. Ratlines Participants and Facilitators

As described above in Part I, prior to the engagement of the Independent Ombudsperson and Advisor, SWC had informed Credit Suisse that its own investigation had uncovered evidence that Credit Suisse was involved in financial transactions that assisted Nazis fleeing to Argentina and other countries—supporting the so called “Ratlines” that comprised the system of routes and evasion used by Nazis escaping justice after the war.³⁸¹ SWC had reiterated these concerns at a June 29, 2021 meeting with the Bank, during which SWC’s counsel reportedly stated that Credit Suisse had actively aided Nazis and Nazi collaborators, including helping them flee to Latin America, procure travel visas, and get off blacklists.³⁸² In a follow-up letter days later, SWC’s counsel once again repeated its claim that the Bank “provided financial services and material support to known Nazi criminals and collaborators, not only during wartime, but well after the end

³⁷⁸ December 15, 2021 Meeting between Ombudsperson, Advisor, and Credit Suisse; January 27, 2022 Meeting between Ombudsperson, Advisor, and Credit Suisse; February 9, 2022 Call between Ombudsperson, Advisor, and Credit Suisse.

³⁷⁹ November 17, 2021 Meeting between Ombudsperson, Advisor, and Credit Suisse.

³⁸⁰ *Id.*

³⁸¹ For example, in a November 2020 letter to the Bank, SWC’s counsel stated that SWC had been investigating Credit Suisse’s role in “financial transactions of Nazis fleeing prosecution during and after WWII and related individuals and entities in Argentina, Switzerland, Liechtenstein and Italy.” Letter from SWC to Credit Suisse, November 25, 2020, at 1; *see also* November 17, 2021 Meeting between Ombudsperson, Advisor, and Credit Suisse.

³⁸² June 29, 2021 Meeting between Credit Suisse and SWC.

of the war.”³⁸³ In response to the Bank’s offer that it would conduct such an investigation if SWC were to share more details about its allegations confidentially with Barofsky and Forman, SWC did so, including identifying to them what it alleged were specific alleged Ratlines participants that SWC’s investigation indicated had accounts at the Bank.³⁸⁴ SWC later supplemented this disclosure with additional evidence of a Ratlines facilitator and participant who it said had held an account at Credit Suisse.

After confidentially reviewing the SWC evidence made available to him, the Independent Ombudsperson found that further investigation of the Ratlines participants was necessary, and recommended that Credit Suisse incorporate into its forensic review the names of individuals who were known to have used or facilitated the Ratlines.³⁸⁵ As part of this recommendation, the Ombudsperson pointed to the existing body of research that already included several hundred names of Nazis with possible ties to Argentina—including Ratlines participants—as a potential source of Ratlines-affiliated names to be included in the review.³⁸⁶ The Bank and the Ombudsperson eventually worked together to compile a list of 366 Ratlines-affiliated names that the Bank would consider investigating.

3. Other Nazi Claims

In its Press Release and correspondence with the Bank, SWC alleged that, based on its investigative process, the heirs of certain Nazis had sought to claim funds held in dormant accounts at the Bank, and later provided the Independent Ombudsperson with certain evidence supporting

³⁸³ Letter from SWC to Credit Suisse, July 2, 2021, at 1, 3.

³⁸⁴ Letter from Credit Suisse to SWC, July 21, 2021, at 1; October 25, 2021 Meeting between SWC, Ombudsperson, and Advisor; Email from SWC to Ombudsperson, November 15, 2021.

³⁸⁵ November 17, 2021 Meeting between Ombudsperson, Advisor, and Credit Suisse.

³⁸⁶ November 17, 2021 Meeting between Ombudsperson, Advisor, and Credit Suisse; Uki Goñi, *The Real Odessa: How Perón Brought the Nazi War Criminals to Argentina* (2022).

those claims.³⁸⁷ Moreover, the Bank acknowledged that it had received some heir claims prior to this investigation.³⁸⁸ As discussed in Part V below, one of the first recommendations the Ombudsperson made to the Bank was that it should incorporate a dormant accounts database—known as DAIM—into its review so that it could build on its prior efforts when investigating SWC’s Press Release allegations related to Nazi-heirs and dormant accounts.³⁸⁹ The Bank later identified a separate database used by Legal and Compliance which held additional documents related to its prior investigations of heir claims that had not yet been included in the current investigation because it was difficult to search.³⁹⁰

The Independent Ombudsperson found it necessary for Credit Suisse to follow up on SWC’s investigation by conducting a focused forensic review of SWC’s Nazi-heir related claims. He recommended, as described in Part V below, searching the dormant accounts database, searching the Legal and Compliance database noted above, and running relevant names through AlixPartners’ forensic review process.³⁹¹

B. Credit Suisse’s Initial Response

As prescribed by the Engagement Letter, once the Independent Ombudsperson made the finding that these additional areas of inquiry were necessary to pursue, he sought Credit Suisse’s agreement that it would do so. After Barofsky and Forman shared their findings of necessity, sought the Bank’s agreement, and proposed recommended approaches to implementing the

³⁸⁷ Email from SWC to Credit Suisse, March 2, 2020; March 2, 2020 Press Release; October 25, 2021 Meeting between SWC, Ombudsperson, and Advisor.

³⁸⁸ November 16, 2021 Meeting between Ombudsperson, Advisor, and Credit Suisse.

³⁸⁹ Letter from Ombudsperson to Credit Suisse, September 10, 2021, at 3–4.

³⁹⁰ December 14, 2021 Meeting between Ombudsperson, Advisor, and Credit Suisse; November 29, 2021 Call between Ombudsperson and Credit Suisse.

³⁹¹ November 17, 2021 Meeting between Ombudsperson, Advisor, and Credit Suisse; November 29, 2021 Call between Ombudsperson and Credit Suisse; December 14, 2021 Meeting between Ombudsperson, Advisor, and Credit Suisse.

expanded scope, Credit Suisse’s response was favorable. On November 29, 2021, Credit Suisse informed the Independent Ombudsperson that the “project sponsors”—Rafael Lopez Lorenzo (then-Chief Compliance Officer) and Romeo Cerutti (then-General Counsel)—had agreed to expand the scope of the investigation along the lines proposed by SWC, the Ombudsperson, and the Advisor, and indicated the expectation that this expanded approach would soon be approved by the Executive Board, of which the project sponsors were members.³⁹²

That initial response was further confirmed by Credit Suisse in December 2021. On December 14, 2021—at a meeting Credit Suisse titled “Update on CSG ExB [Executive Board] outcome, Scope discussion (part 1)” and described as “Briefing re determinations by CSG Executive Board on Dec. 7, 2021, and related implementation and planning discussion”³⁹³—Credit Suisse informed the Independent Ombudsperson and Advisor both orally and in a written presentation that the Executive Board had agreed to expand the investigation’s scope, adopted most of the Ombudsperson’s findings, and proposed a plan going forward that included Ombudsperson and Advisor oversight.³⁹⁴ Specifically, in presentations given to the Ombudsperson and Advisor entitled “Suggested Scope Changes – Approach for Discussion,” Credit Suisse conveyed that the Executive Board had agreed to conduct a review of: (1) the names on the 1997 SWC List; (2) Ratlines facilitators and escapees; (3) the specific names identified by SWC; and (4) the Nazi-related heir claims.³⁹⁵ This amounted to fewer than 1,000 additional names. Credit Suisse committed to reviewing the names on the Nuremberg List also insofar as they appeared on the 1997 SWC List. Credit Suisse indicated it was still assessing the other names on

³⁹² November 29, 2021 Call between Ombudsperson and Credit Suisse.

³⁹³ Meeting Invite for December 14, 2021 Meeting between Ombudsperson, Advisor, and Credit Suisse.

³⁹⁴ December 14, 2021 Meeting between Ombudsperson, Advisor, and Credit Suisse.

³⁹⁵ December 14, 2021 Meeting between Ombudsperson, Advisor, and Credit Suisse; December 14, 2021 Suggested Scope Changes – Approach for Discussion Presentation.

the Nuremberg List to determine if they were on other lists planned for review.³⁹⁶ Credit Suisse also reported that it was further considering whether it could review the UBS and Volcker lists, as the Bank did not have copies of the lists readily available and needed further information to determine the feasibility of searching for the Nazis that might be on them.³⁹⁷

Thereafter, in addition to email exchanges, the Independent Ombudsperson and Advisor and Credit Suisse met multiple times over the course of several months to further discuss the expanded investigation, how to implement the Ombudsperson's recommendations, and Credit Suisse's progress as it began investigating.³⁹⁸ This process was fully cooperative and collaborative, and the Bank's then-General Counsel confirmed the importance of the work the Bank was conducting and the value of the Ombudsperson and Advisor's oversight of it. None of the Bank's executives, employees, consultants, or outside counsel made any objection to the Ombudsperson regarding the expansion of the scope of the investigation.

Credit Suisse worked closely with the Independent Ombudsperson and Advisor over several months to make progress on the expanded SWC Leads investigation. For example, to implement the expanded investigation of the Ratlines, Credit Suisse and the Ombudsperson worked together to first compile lists of known Nazis who escaped via the Ratlines and individuals who facilitated their escape for Credit Suisse's account review.³⁹⁹ These lists included 366 names

³⁹⁶ December 14, 2021 Meeting between Ombudsperson, Advisor, and Credit Suisse.

³⁹⁷ December 14, 2021 Meeting between Ombudsperson, Advisor, and Credit Suisse. Credit Suisse did not have access to the UBS list to determine the effort that it would take to review the list, but understood that the list had thousands of names. Credit Suisse understood that the Volcker list contained names that were not specific enough to enable Credit Suisse to perform a review. December 14, 2021 Meeting between Ombudsperson, Advisor, and Credit Suisse.

³⁹⁸ January 27, 2022 Meeting between Ombudsperson, Advisor, and Credit Suisse; February 9, 2022 Call between Ombudsperson, Advisor, and Credit Suisse; March 2, 2022 Meeting between Ombudsperson and Credit Suisse; April 13, 2022 Meeting between Ombudsperson, Advisor, and Credit Suisse; May 18, 2022 Meeting between Ombudsperson, and Credit Suisse.

³⁹⁹ A list of Ratlines escapees and facilitators needed to be compiled. To do so, Credit Suisse and the Ombudsperson jointly conducted a review of sources on the Ratlines. Credit Suisse identified four books

of Nazis, as well as their known aliases, and Ratlines facilitators. For example, the list included notorious Nazis who escaped via the Ratlines such as Adolf Eichmann and his aliases—Ricardo Klement, Otto Eckmann, and Otto Heninger—and Josef Mengele and his aliases—Helmut Gregor, Grigori Helmuth, Grigori Helmut.⁴⁰⁰ Notably, for one of the individuals on the Bank’s list—Friedrich Schwend—the Ombudsperson found independent publicly available evidence indicating that this individual likely had an account at Credit Suisse. The Ombudsperson and the Bank also discussed the potential of soliciting SWC to supply additional names from its own investigation to the proposed Ratlines lists.⁴⁰¹

After the Independent Ombudsperson and Advisor held separate discussions with Credit Suisse and SWC, it was determined that searching for matches to the lists of Nazis and the Ratlines participants identified above should take priority over searching for matches to the UBS list, due

on the Ratlines and provided the Independent Ombudsperson with lists of escapees and escapee facilitators discussed in these sources that it thought should be part of the review. These sources included: Gerald Steinacher, *Nazis auf der Flucht. Wie Kriegsverbrecher über Italien nach Übersee entkamen* (2008); Uki Goñi, *The Real Odessa: How Perón Brought the Nazi War Criminals to Argentina* (2022); Ernst Klee, *Persilscheine und falsche Pässe. Wie die Kirchen den Nazis halfen* (1991); Rena Giefer & Thomas Giefer, *Die Rattenlinie. Fluchtwege der Nazis. Eine Dokumentation* (1991). See January 27, 2022 Meeting between Ombudsperson, Advisor, and Credit Suisse; CS SWC_0073904 – 0073906_List of Individuals Using Rat Lines; CS SWC_0073907 – 0073912_List of Collaborators and their Actions Related to Rat Lines. The Independent Ombudsperson reviewed the same sources and created lists to supplement Credit Suisse’s lists. Email from Ombudsperson to Credit Suisse, April 6, 2022. The Independent Ombudsperson also reviewed additional sources for the names of escapees and facilitators. One of these additional sources was provided to AlixPartners as both a source of escapee names and as background information on individuals already identified on the Ratlines lists. Email from Ombudsperson to AlixPartners, June 3, 2022. In addition, the Ombudsperson provided a third list to the Bank, this one containing names of Nazis, fascists, and supporters of Nazis and fascists not known to have escaped on, or facilitated, the Ratlines. The names on this list were identified from the same source material used to prepare the lists of Ratlines escapees and their facilitators. The Ombudsperson provided this third list to the Bank so the Bank could consider adding those names to its efforts to identify Nazi-related accounts given the Bank’s concerns about the quality of other available lists of Nazis, such as those used or compiled by its competitor, UBS, and the Volcker Commission. See Email from Ombudsperson to Credit Suisse, April 6, 2022.

⁴⁰⁰ Feb. 15, 2022 SWC_0073904 – 0073906_List of Individuals Using Rat Lines at 1–2; Uki Goñi, *The Real Odessa: How Perón Brought the Nazi War Criminals to Argentina* 284 (2022).

⁴⁰¹ March 2, 2022 Meeting between Ombudsperson, and Credit Suisse; CS SWC_0073904 – 0073906_List of Individuals Using Rat Lines at 3.

to deficiencies in the quality of the portion of the list that was provided to the Ombudsperson.⁴⁰²

It was similarly determined that the Bank did not have in its possession a complete version of the Volcker list, so the Ombudsperson agreed that searching an incomplete version of the list should be deprioritized while continuing to try and obtain a more complete version of it.⁴⁰³

C. Credit Suisse's Initial Findings

As described in further detail above in Part I, shortly after Cerutti was replaced as General Counsel, new leadership over the investigation directed Credit Suisse to place a “hold” on sharing data and information about its investigation with the Independent Ombudsperson and Advisor and ultimately terminated the Bank’s investigation before it could be fully carried out.⁴⁰⁴ But by this time, the Bank had already begun making progress in investigating some of the SWC Leads and had already shared some of its information with the Ombudsperson and Advisor. Credit Suisse’s presentations to them based on that initial work covered various topics, but, most importantly, as detailed below, conveyed several important findings confirming activity relating to Nazi-linked accounts that the Bank indicated were previously undisclosed.

At their meetings with Barofsky and Forman, the Credit Suisse project team and then-General Counsel Romeo Cerutti recognized and commented on the importance of these discoveries and acknowledged the historical significance of the work.⁴⁰⁵ They noted that such newly discovered evidence demonstrated that the work being done by the Bank was meaningful, and they touted it as proof of the depth of their commitment to the project, characterizations that the

⁴⁰² January 27, 2022 Meeting between Ombudsperson, Advisor, and Credit Suisse; February 7, 2022 Meeting between Ombudsperson and SWC.

⁴⁰³ December 14, 2021 Meeting between Ombudsperson, Advisor, and Credit Suisse; March 2, 2022 Meeting between Ombudsperson and Credit Suisse.

⁴⁰⁴ Email from Credit Suisse to Ombudsperson, November 8, 2022.

⁴⁰⁵ May 18, 2022 Meeting between Ombudsperson, Credit Suisse, and Advisor.

Ombudsperson team fully endorsed at the time.⁴⁰⁶

The following section provides details concerning the Bank's initial findings made after the Independent Ombudsperson conveyed the SWC Leads to the Bank but before it shut down the Ombudsperson and Advisor's oversight and terminated its own investigation. This Report anonymizes these findings to a significant degree.

1. Credit Suisse Confirmed the Existence of a Previously Undisclosed Account Controlled by an SS Officer that Calls into Question Its Candor with the Bergier Commission.

As detailed above in Part II, the Bergier Commission reported that it had found in German archives evidence of a relationship between Credit Suisse and DWB (as described by the Bergier Commission, a holding company for numerous SS companies that had been entrusted with the economic exploitation of the Jews in connection with the "Final Solution").⁴⁰⁷ This evidence included a memorandum authored by an SS representative, which described how that individual, the DWB managing directors, and Alfred Kurzmeyer, a senior official at Deutsche Bank, were authorized to withdraw money from an account, and a note from that same SS representative to another SS official, which referred to an account "that seem[ed] to correspond [to the first account] in every respect" as being located at SKA.⁴⁰⁸ Together, those documents suggested to the Bergier Commission that DWB had an account at SKA from which Kurzmeyer and various SS directors and representatives were authorized to draw, and that at least one of those SS representatives had a relationship with a General Director of SKA.⁴⁰⁹ DWB was one of the specific entities that the

⁴⁰⁶ *Id.*

⁴⁰⁷ Bergier Commission, Vol. 9, *Tarnung, Transfer, Transit. Die Schweiz als Drehscheibe verdeckter deutscher Operationen (1938–1952)* (2002), at 164–65.

⁴⁰⁸ Bergier Commission, Vol. 9, *Tarnung, Transfer, Transit. Die Schweiz als Drehscheibe verdeckter deutscher Operationen (1939–1952)* (2002), at 155, 165, 169 n.244–45.

⁴⁰⁹ Bergier Commission, Vol. 9, *Tarnung, Transfer, Transit. Die Schweiz als Drehscheibe verdeckter deutscher Operationen (1939–1952)* (2002), at 165, 169 n.244–45.

Bank agreed to include in its expanded investigation, after being identified by SWC, the Independent Ombudsperson, and the Advisor.⁴¹⁰ The Bergier Commission further noted that there were three representatives of the SS who had “maintained a customer relationship with [Credit Suisse].”⁴¹¹

According to a presentation the Bank gave to the Independent Ombudsperson and Advisor, when the Bergier Commission asked Credit Suisse for confirmation that DWB held an account, Credit Suisse responded, in 2001, that it had “found no information in [its corporate archive] that SKA maintained a business relation[.]” with DWB or its subsidiaries.⁴¹² Similarly, according to the Bergier Commission, the Bank “no longer ha[d] any records” for the three SS representatives.⁴¹³ The Bergier Commission thus stated in its report that relevant SKA records relating to a DWB account and records related to the SS representatives did not exist, and speculated such documents may have been destroyed around the time of the Nuremberg trials.⁴¹⁴

As part of its investigation into this SWC Lead, Credit Suisse confirmed the existence of an account which the Bank stated was potentially the account referenced in the Bergier Report,⁴¹⁵ and which listed the name of one of the three SS representatives for which the Bank told the Bergier Commission that it had no records.⁴¹⁶ Specifically, in a presentation given to the Independent Ombudsperson in May 2022, Credit Suisse reported that it had found during its searches of

⁴¹⁰ November 17, 2021 Meeting between Ombudsperson, Advisor, and Credit Suisse; April 13, 2022 Meeting between Ombudsperson and Credit Suisse.

⁴¹¹ Bergier Commission, Vol. 9, *Tarnung, Transfer, Transit. Die Schweiz als Drehscheibe verdeckter deutscher Operationen (1938–1952)* (2002), at 151.

⁴¹² April 13, 2022 Ongoing Research Update Presentation at 19.

⁴¹³ Bergier Commission, Vol. 9, *Tarnung, Transfer, Transit. Die Schweiz als Drehscheibe verdeckter deutscher Operationen (1938–1952)* (2002), at 151.

⁴¹⁴ Bergier Commission, Vol. 9, *Tarnung, Transfer, Transit. Die Schweiz als Drehscheibe verdeckter deutscher Operationen (1938–1952)* (2002), at 169.

⁴¹⁵ June 15, 2022 Meeting between Ombudsperson and Credit Suisse.

⁴¹⁶ May 18, 2022 Ongoing Research Update Presentation at 6; Bergier Commission, Vol. 9, *Tarnung, Transfer, Transit. Die Schweiz als Drehscheibe verdeckter deutscher Operationen (1938–1952)* (2002), at 151.

documents related to Kurzmeyer a document which reflected a specific SKA account (with a specific account number), and stated in the presentation that the account was “controlled by” a particular SS official who the Bank later described as a “representative” of DWB.⁴¹⁷ The PowerPoint slides accompanying the presentation included an image of a bank record showing the individual’s name on it along with Kurzmeyer, but with the SS official’s name crossed out, likely because, as the Bank explained, the individual was named on the account but then later removed from it.⁴¹⁸ The Bank’s presentation noted that a second account was opened in 1945 without the SS officer’s name on it, and the assets from the account that had listed the SS officer’s name were transferred to the second account.⁴¹⁹ It is notable that this transfer occurred in the waning days of the war when many high-level Nazis were plotting their escape and secreting assets to prepare for the Nazis’ inevitable defeat, and sought to do so in a manner that hid their actual identity.⁴²⁰ The Bank said that it did not know at the time what happened to the account’s assets after they were transferred to the new account, and to the extent that it conducted any additional investigation, it did not allow Ombudsperson and Advisor oversight of it.

Following this presentation, the Independent Ombudsperson discovered this same account document naming the former SS officer/DWB representative among the working papers that were compiled during the Bank’s prior investigation in the 1990s. But neither that document nor the SS Officer named on the account document was referenced in the information the Bank provided to the Bergier Commission, including in its denial of the existence of records of a DWB account or

⁴¹⁷ May 18, 2022 Ongoing Research Update Presentation at 6; Letter from Credit Suisse to Ombudsperson, August 26, 2022, at 6.

⁴¹⁸ May 18, 2022 Ongoing Research Update Presentation at 6; May 18, 2022 Meeting between Ombudsperson, Credit Suisse, and Advisor.

⁴¹⁹ May 18, 2022 Ongoing Research Update Presentation at 6.

⁴²⁰ Bergier Commission, *Switzerland, National Socialism, and the Second World War. Final Report* (2002), at 382.

its denial that it possessed any records about this specific SS officer. In other words, although Credit Suisse claimed to the Bergier Commission that the Bank found “no information in [its corporate archive] that SKA maintained a business relation[.]” with DWB or its subsidiaries,⁴²¹ or any records related to the three SS representatives,⁴²² the Ombudsperson’s investigation has revealed that the Bank had indeed found an account document bearing the name of a DWB representative, but apparently that was not shared with the Bergier Commission. Nor does it appear that this account was otherwise disclosed, either internally or externally.⁴²³

Because Credit Suisse ceased providing the Independent Ombudsperson and Advisor with information or access shortly after these disclosures were made, they were not able to determine why the Bank did not disclose this information to the Bergier Commission. The Ombudsperson has also not been able to confirm the details of what this account was or who it was technically for—whether it was a DWB account or an account belonging to a representative of DWB, although he suspects the former. Nor was the Ombudsperson given the opportunity to verify whether there were additional documents in Credit Suisse’s archives that could provide additional light on this account, what happened to the assets after they were transferred to another Credit Suisse account, or whether there were other facts learned which were similarly inconsistent with other previous assertions to the Bergier Commission, the Volcker Commission, or other historical inquiries.

2. Credit Suisse Identified New Matches from the SWC List but Failed to Disclose Details to the Independent Ombudsperson

Credit Suisse provided the Independent Ombudsperson with limited information about the findings from its review of the 334 names on the 1997 SWC List. That review process was

⁴²¹ April 13, 2022 Ongoing Research Update Presentation at 19.

⁴²² Bergier Commission, Vol. 9, *Tarnung, Transfer, Transit. Die Schweiz als Drehscheibe verdeckter deutscher Operationen (1938–1952)* (2002), at 151.

⁴²³ April 13, 2022 Ongoing Research Update Presentation at 19.

completed after Credit Suisse put the Ombudsperson's access on "hold," but it is apparent from the context of its disclosure that the Bank identified at least three additional accounts of individuals on the 1997 SWC List that were not previously identified.⁴²⁴ There may have been more Nazi accounts discovered by the review, but the Bank failed to provide the names, or even the number, of additional 1997 SWC List Nazis it identified as holding accounts at the Bank.⁴²⁵ Indeed, the information provided contained few details about the review, which was conducted without any involvement or oversight by the Ombudsperson or Advisor.

The Bank's disclosure further demonstrates the insufficiency of its prior historical review, and corroborates SWC's allegation that it was not sufficiently rigorous or competent to address SWC's concerns or to provide a thorough accounting of the Bank's ties to Nazis. The totality of the Bank's disclosure to the Independent Ombudsperson follows:

- In an August 2022 letter regarding potential restoration of the Ombudsperson's access and oversight, including oversight of the Bank's review of the SWC List, Credit Suisse stated that: "AlixPartners has completed its review of the SWC List and identified one additional account that was open during the period reviewed [by the Bank's historical investigation]. This account was open from 1929 to March 1933, and the account holder was later acquitted at Nuremberg."⁴²⁶ Credit Suisse did not provide any explanation to the Ombudsperson as to who this Nazi was and why this account was not uncovered by its prior historical review.
- Credit Suisse stated that "Additionally, AlixPartners identified a limited number of further accounts that were opened after 1950 which were outside the scope of [the Bank's historical] review. . . [W]e do not consider the time after 1950 as relevant in this context, and we also note that the issue of accounts held by Germans was the subject matter of several agreements between Switzerland and the U.S. and other Allied as well as the new Federal Republic of Germany."⁴²⁷ Although the Bank appeared to be suggesting that accounts opened after 1950 are not relevant, no such date limitation was included, either when SWC originally sent its list in 1997 (specifying only that the banks should search for accounts open from 1938

⁴²⁴ Letter from Credit Suisse to Ombudsperson, August 26, 2022, at 6.

⁴²⁵ *Id.*

⁴²⁶ *Id.*

⁴²⁷ *Id.*

on),⁴²⁸ or when it reiterated this request to the Bank and Ombudsperson in 2021. Moreover, this time frame, of course, would have been within the period pertaining to Nazi flight by the Ratlines, which was a stated focus of SWC.⁴²⁹

The Bank did not provide further details about these Nazi accounts, including whether any investigation was done regarding the source of funds for the accounts opened after 1950. Given that the Bank had already identified that assets from the SS officer related account described above were transferred in 1945 into a new account in the waning days of the war,⁴³⁰ it would be reasonable to investigate whether the post-1950 Nazi accounts were funded through a pre-existing pseudonym, relative, or known Nazi intermediary's account at Credit Suisse. And as noted in Part V below, it was not uncommon in the decades after the war for Nazis who escaped on the Ratlines to resume their old identities as the focus on the war receded, suggesting that the assets that funded these Nazis accounts may have already been at Credit Suisse prior to the opening of the new accounts in their names. And of course the Bank did not subject its reviews for the Nazi assets to the oversight that it had represented to SWC that it would provide.⁴³¹

In addition to the 1997 SWC List findings, prior to terminating oversight, Credit Suisse also found evidence related to a previously undisclosed account connected to a Nazi who was not on the 1997 SWC List but who had been convicted at Nuremberg, and was therefore on the Nuremberg list of accounts that the Bank had previously searched.⁴³² This Nazi's name was identified to the Independent Ombudsperson and Advisor.

Unfortunately, Credit Suisse did not take these discoveries as evidence of the need to go

⁴²⁸ Letter from SWC to the Confederation of Switzerland, February 12, 1997, at 2.

⁴²⁹ See Steinacher, *Nazis auf der Flucht. Wie Kriegsverbrecher über Italien nach Übersee entkamen* (2008), at 8; Letter from SWC to Credit Suisse, November 25, 2020, at 1.

⁴³⁰ See May 18, 2022 Ongoing Research Update Presentation at 6.

⁴³¹ Letter from Credit Suisse to SWC, June 24, 2021 at 1; June 29, 2021 Meeting between Credit Suisse and SWC.

⁴³² May 18, 2022 Ongoing Research Update Presentation at 6.

beyond the historical reviews and continue with the forensic investigation it agreed to conduct in December 2021. Instead, the Bank made statements that appeared to minimize the importance of these findings, with a senior Credit Suisse executive telling the Independent Ombudsperson that AlixPartners “has not found anything new of material substance.”⁴³³ In particular, the Bank dismissed its identification of the Nazi account opened before World War II that should have been identified by the Bank’s historical review by stating that it was “not . . . a relevant addition to [the Bank’s prior] work,” and similarly dismissed the accounts that were opened after 1950 as not “relevant in this context.”⁴³⁴ During a discussion about the discovery of an account linked to a Nazi convicted at Nuremberg, a senior Credit Suisse executive appeared to question the significance of this finding, when the executive commented on the fact that the Nazi’s sentence at Nuremberg had been reduced.⁴³⁵ However, these findings are precisely the type of information SWC was concerned about, and have been described by the Ombudsperson’s historian as historically significant. And to the extent that they were discovered prior to June 2022, the Bank’s own leadership team also acknowledged their significance. It is unfortunate that Credit Suisse no longer recognizes the importance and relevance, both to SWC and to the historical record, of the identification for the first time of Nazis that SWC first asked the Bank to look for 25 years ago, as well as the discovery of the Bank’s failure to previously disclose to the Bergier Commission information in its possession about at least one Nazi that the Bank had found but did not report.

3. Credit Suisse’s Ownership in a Company Controlled by a Nazi Businessperson

Also in the Spring of 2022, Credit Suisse reported to the Independent Ombudsperson that it had found evidence regarding a Nazi businessperson’s entity and the Bank’s efforts to shield the

⁴³³ Email from Credit Suisse to Ombudsperson, November 8, 2022.

⁴³⁴ Letter from Credit Suisse to Ombudsperson, August 26, 2022, at 6.

⁴³⁵ June 15, 2022 Meeting between Ombudsperson, Advisor, and Credit Suisse.

assets of that entity from governmental seizure that it had previously not discovered or disclosed. At a time when the businessperson was a known Nazi, the individual restructured a corporate entity with the Bank's assistance in a manner that made Credit Suisse, at least on paper, the entity's majority owner.⁴³⁶ The approximate assets under management of the entity was an amount that would be equivalent to several hundred million U.S. dollars today.⁴³⁷ The purpose of that restructuring, according to a note the Bank stated it found for the first time in the Bank's archives, was "to move the majority of the shares abroad" so that the individual "cannot be forced to liquidate" the company and "to hand over the assets held outside of Germany."⁴³⁸ The note further stated that "SKA will vote its shares in accordance with" the individual's "instructions"—in other words, the Bank would continue to allow the individual to control the entity, despite no longer formally holding a majority share.⁴³⁹ The Bank's presentation to the Ombudsperson conveyed that the Nazi businessperson engaged in other transactions to further conceal the Nazi's ownership of the entity, and that notwithstanding these transactions, the Bank continued to receive and execute instructions from the Nazi businessperson, even after the businessperson no longer had any formal ownership interest in the company.⁴⁴⁰

Credit Suisse's presentation also conveyed that, thereafter, Credit Suisse gained complete ownership of the entity.⁴⁴¹ It explained that several years after the war concluded, the Bank gained

⁴³⁶ April 13, 2022 Ongoing Research Update Presentation at 5, 8; April 13, 2022 Meeting between Ombudsperson, Advisor, and Credit Suisse.

⁴³⁷ April 13, 2022 Ongoing Research Update Presentation at 11. More information concerning this number cannot be provided due to confidentiality concerns.

⁴³⁸ April 13, 2022 Ongoing Research Update Presentation at 8; April 13, 2022 Meeting between Ombudsperson, Advisor, and Credit Suisse; May 18, 2022 Meeting between Ombudsperson, Advisor, and Credit Suisse.

⁴³⁹ April 13, 2022 Ongoing Research Update Presentation at 8.

⁴⁴⁰ April 13, 2022 Ongoing Research Update Presentation at 7, 9-10.

⁴⁴¹ April 13, 2022 Ongoing Research Update Presentation at 5. Eventually, the entity was merged into Credit Suisse. *Id.*

100% of the ownership of the company, which after the transaction held a significant amount of cash from the sale of assets -- millions of US dollars in today's equivalent.⁴⁴² Records indicate the reason for the transaction was that the businessperson had taken up residence outside of Europe by this time and wanted the assets in the company's account transferred to South America for political and economic reasons.⁴⁴³

Finally, the Bank informed the Independent Ombudsperson that subsequent to the Bank gaining 100% control of the entity, the entity was one of the entities the Bank used to make payments, including in the form of bonuses, to Credit Suisse executives.⁴⁴⁴ The Ombudsperson informed the Bank that it should investigate further the circumstances of how this Nazi-linked entity came to be a vehicle used by Credit Suisse to reward its executives.⁴⁴⁵ It agreed it would do so.⁴⁴⁶ Notwithstanding this agreement, Credit Suisse provided no subsequent information regarding this account to the Ombudsperson and Advisor.

D. Credit Suisse's Decision Not to Complete Its Investigation into the SWC Leads or Provide Oversight for the Portions That It Completed

Credit Suisse's decision to put on "hold" and then terminate independent oversight of its investigation before it was completed left significant aspects of Credit Suisse's ties to Nazis unexamined and its commitments to SWC unfulfilled. SWC made clear that it was important that the results of the Bank's review of the 1997 SWC List could be independently verified by Barofsky.⁴⁴⁷ SWC did not trust the thoroughness of the Bank's review or the Bank's candor, and

⁴⁴² April 13, 2022 Meeting between Ombudsperson, Advisor, and Credit Suisse.

⁴⁴³ April 13, 2022 Ongoing Research Update Presentation at 10.

⁴⁴⁴ April 13, 2022 Meeting between Ombudsperson, Advisor, and Credit Suisse.

⁴⁴⁵ *Id.*

⁴⁴⁶ April 13, 2022 Meeting between Ombudsperson, Advisor, and Credit Suisse; June 15, 2022 Meeting between Ombudsperson, Advisor, and Credit Suisse.

⁴⁴⁷ November 17, 2021 Meeting between Ombudsperson, Advisor, and Credit Suisse; December 17, 2022 Call between Ombudsperson and SWC.

was concerned that the Bank would minimize the importance of any findings or actively conceal them.⁴⁴⁸ Because Credit Suisse has not shared its data, methodology, or complete findings with the Independent Ombudsperson, no such verification has occurred. Indeed, as noted above, the Bank did not disclose even the names and number of additional Nazis on the 1997 SWC List who had accounts at Credit Suisse that it uncovered as a result of its investigation of the SWC Leads. Thus, it is not possible for the Ombudsperson to provide transparency to SWC or otherwise report on, for example, the full implications of the failures of the Bank's historical review to identify Nazi accounts at Credit Suisse, or the degree to which those failures were the results of mistakes or purposeful attempts to cover up its past. The Ombudsperson similarly cannot make similar conclusions with respect to the similar lack of transparency that color the Bank's current review.

Additionally, the Bank had previously agreed to incorporate into its review individuals who were known to have used or facilitated the Ratlines. In doing so, it solicited the Independent Ombudsperson's agreement that it could deprioritize other recommendations he made, including the review of additional lists and certain measures with respect to the Press Release Investigation (discussed in Part V below), in order to allow the Bank to commit the necessary resources to investigate other SWC leads, including the Ratlines review.⁴⁴⁹ Credit Suisse, however, told the Ombudsperson that it never performed a review of the names on the Ratlines lists.⁴⁵⁰ It thus neither fulfilled its assurance to SWC that it would investigate the Bank's connections to the Ratlines nor reprioritized those other reviews.⁴⁵¹

The Bank also initially agreed to conduct a search related to Nazi-heir claims, but it

⁴⁴⁸ August 20, 2021 Call between Ombudsperson and SWC.

⁴⁴⁹ February 9, 2022 Call between Ombudsperson, Advisor, and Credit Suisse; March 2, 2022 Meeting between Ombudsperson and Credit Suisse.

⁴⁵⁰ Letter from Credit Suisse to Ombudsperson, August 26, 2022, at 7; Email from Credit Suisse to Ombudsperson, November 8, 2022.

⁴⁵¹ Letter from Credit Suisse to Ombudsperson, August 26, 2022, at 7.

similarly did not complete this work.⁴⁵² In the Spring of 2022, the Bank's advisors stated that the Bank was still attempting to determine whether a database containing information related to heir claims was searchable.⁴⁵³ In August 2022, the Bank wrote that it had searched its records for information regarding the claims of two purported Nazi heirs, but did not convey its findings.⁴⁵⁴ Its letter also stated it would not perform any further work related to heir claims.⁴⁵⁵ Because this was after the Independent Ombudsperson's access had been put on "hold," the Ombudsperson was not able to test or verify any findings by the Bank regarding these individuals or evaluate the Bank's review of the additional database.

In addition, the Independent Ombudsperson retained the Independent Historian and with agreement by the Bank, placed him on a retainer under which he was paid monthly.⁴⁵⁶ As discussed above, hiring a historian was intended to assist the Bank and the Ombudsperson by providing historical context on individuals and events for the Bank's investigation and by enlisting him to search, among other sources, the Bank's paper archives.⁴⁵⁷ However, within weeks of conducting a meeting in June 2022 whose primary purpose was to prepare the Independent Historian to begin his search of the Bank's archives, the Bank refused to allow the Independent Historian access to the archives or even meet with the archivists who oversee them. Instead, the Ombudsperson asked the Independent Historian to conduct research outside of those archives into the allegations and leads provided by SWC, so that the Bank's resources in paying him would not

⁴⁵² Information regarding the Bank's review of a dormant accounts database containing information related to claims by Nazi heirs is contained in Part V.

⁴⁵³ March 2, 2022 Meeting between Ombudsperson and Credit Suisse.

⁴⁵⁴ Letter from Credit Suisse to Ombudsperson, August 26, 2022, at 7.

⁴⁵⁵ *Id.*

⁴⁵⁶ June 17, 2022 Engagement Letter between historian and Jenner & Block at Sec. IX (a); August 8, 2022 Meeting between Ombudsperson and Credit Suisse.

⁴⁵⁷ December 15, 2021 Meeting between Ombudsperson, Advisor, and Credit Suisse; March 2, 2022 Meeting between Ombudsperson and Credit Suisse.

go to waste while waiting for the Bank to fulfill its repeated assurances that it would restore archival access, as detailed above in Part I.⁴⁵⁸

The Independent Historian's preliminary research, even without the benefit of access to the Bank's records, identified several additional leads identifying potential connections between Credit Suisse and prominent Nazis. These leads provide further evidence to support SWC's allegations that the Bank may have had previously unconfirmed ties to the SS and corporate entities that supported the Nazi war effort and held accounts for individuals involved in the Ratlines. The Nazi-affiliated individuals and entities identified by the Independent Historian provided significant support to the Nazi regime by, for example, facilitating the trade of looted assets, overseeing the Nazis' money laundering and forgery operations, and hiding and transferring Nazi assets to Latin America during the war. The Independent Historian reported the following leads, and pursuant to section I(f) of his Engagement Letter, the Independent Ombudsperson recommends that the Bank follow up on each of them.

- As to further evidence to address SWC's concerns that Credit Suisse supported corporate entities that facilitated the Nazi war effort, according to the Independent Historian, documents that he retrieved from the archive of a German state agency suggest that in 1942, SKA was used by a German entity, Rohstoff-Handelsgesellschaft mbH, Berlin ("ROGES") to facilitate the purchase of diamonds for Nazi Germany. ROGES was established on December 18, 1940 by the German army to acquire and manage seized property in occupied territories. The company held a decisive role in the spoliation and looting of the occupied territories. It was also responsible for the import of industrial diamonds.⁴⁵⁹ According to an American report based on German sources found at the end of the war, in 1942, ROGES opened a credit account in Swiss francs equivalent to 200,000 Reichsmark at SKA, Zurich, for a Dr. Friedrich Beutner, a German lawyer who was to

⁴⁵⁸ This work was conducted while the Independent Ombudsperson waited for the Bank to provide the Independent Historian with access to the Bank's archives, which it promised but never provided. Email from Credit Suisse to Ombudsperson, June 30, 2022.

⁴⁵⁹ Ralf Banken, *Edelmetallmangel und Großraubbwirtschaft. Die Entwicklung des deutschen Edelmetallsektors im „Dritten Reich“ 1933-1945* (2009), at 659-61; NARA, Washington, U.S. Office of Military Government for Germany, (OMGUS), RG 260, Roll 0046, *Report B-15 Supplement*, June 17, 1946, at ¶4.

use the credit in the continued purchases of industrial diamonds in Brazil for the benefit of the Nazi regime.⁴⁶⁰ ROGES's 1944 corporate audit reports demonstrate that the credit was later raised to 3,000,000 Reichsmark. In total, ROGES transferred approximately 3,200,000 Reichsmark into Dr. Beutner's account for the purchase of diamonds.⁴⁶¹ Of this amount, one million Reichsmark could not be recovered by ROGES.⁴⁶² The Independent Historian also identified an American intelligence report that stated that at the end of the war, Dr. Beutner was investigated by the American embassy in Rio de Janeiro, under suspicion of concealing the transfer of Nazi assets to Latin America.⁴⁶³

- As to SWC's allegations that the Bank had previously undisclosed ties to the SS and supported the Ratlines, the Independent Historian cited a report from the Liechtenstein Commission which indicates that SS Officer Friedrich Schwend maintained an account with Bank Leu after the war.⁴⁶⁴ Schwend was the operational head of a counterfeiting operation codenamed "Operation Bernhard," which was prepared and led by SS-Sturmbannführer Bernhard Krüger and, on the order of SS leaders Heinrich Himmler and Ernst Kaltenbrunner, was designed to provoke chaos and destabilize the British currency and economy by flooding the market with counterfeit British pound notes (that plan was never realized, however).⁴⁶⁵ After the collapse of the Third Reich, Operation Bernhard's safehouses became a critical component of the Nazi Ratlines escape route through Italy.⁴⁶⁶ In or around 1946, Schwend fled to South America through the Ratlines and ultimately made it to Lima, Peru.⁴⁶⁷ Schwend was included on the Bank's list of Ratlines participants that it initially said it would review while Cerutti

⁴⁶⁰ NARA, Washington, U.S. Office of Military Government for Germany, (OMGUS), RG 260, Roll 0046, *Report B-15 Supplement*, June 17, 1946, ¶ 4; NARA, OSS Records RG 226, Box 52, Folder 123, U.S. Embassy Rio de Janeiro, *Possible Safehaven Activities of Friedrich Wilhelm Beutner, June 24, 1946, enc. 1, Memorandum from the Office of the Legal Attaché, Rio de Janeiro, dated May 29, 1944, re: F.W. Beutner*, at 2.

⁴⁶¹ Bundesarchiv Berlin, R 8 IX, vol. 3, Bericht der Deutschen Revisions- und Treuhand-Aktiengesellschaft Berlin über die bei der Reichsstelle für technische Erzeugnisse, Abteilung Diamanten, vorgenommene Sonderprüfung (1944), at 50, ¶139a.

⁴⁶² Bundesarchiv Berlin, R 8 IX, vol. 3, Bericht der Deutschen Revisions- und Treuhand-Aktiengesellschaft Berlin über die bei der Reichsstelle für technische Erzeugnisse, Abteilung Diamanten, vorgenommene Sonderprüfung (1944), at, 51, ¶139b.

⁴⁶³ NARA, OSS Records RG 226, Box 52, Folder 123, U.S. Embassy Rio de Janeiro, *Possible Safehaven Activities of Friedrich Wilhelm Beutner*, June 24, 1946.

⁴⁶⁴ See Liechtenstein Commission, Vol. 3/1, *Liechtensteinische Finanzbeziehungen zur Zeit des Nationalsozialismus* (2005), at 434.

⁴⁶⁵ Steinacher, *Nazis auf der Flucht. Wie Kriegsverbrecher über Italien nach Übersee entkamen* (2008), at 180-81.

⁴⁶⁶ *Id.* at 183.

⁴⁶⁷ *Id.* at 222.

was still General Counsel, but which it subsequently refused to do.⁴⁶⁸

- As to SWC's allegations that the Bank aided in Nazi related transactions, according to the Independent Historian, documents retrieved from the archives of the Bank of Liechtenstein show that Alois Miedl, a German-Dutch banker and art dealer who supplied Hermann Göring with stolen works of art,⁴⁶⁹ may have had an account with SKA. In September 1949, Miedl paid 2,600 Swiss francs via an account at SKA to the German banker Adolf Ratjen.⁴⁷⁰ Ratjen joined the Nazi Party in 1940 and served in the Foreign Intelligence/Defense Office of the Supreme Command of the Wehrmacht (Oberkommando der Wehrmacht, OKW).⁴⁷¹

As stated above, the Independent Historian's findings resulted only from searches in publicly available documents, as the Bank refused to provide him access to its archives. To the Independent Ombudsperson's knowledge, neither Beutner, Schwend, nor Miedl's connections to Credit Suisse's predecessor banks have been addressed by the Bank's historical investigation or the other prior investigative efforts identified by the Bank.

⁴⁶⁸ December 14, 2021 Meeting between Ombudsperson, the Advisor, and Credit Suisse; CS SWC_0073904 – 0073906_List of Individuals Using Rat Lines at 3.

⁴⁶⁹ See Bergier Commission, Vol. 1, *Fluchtgut – Raubgut. Der Transfer von Kulturgütern in und über die Schweiz 1933–1945 und die Frage der Restitution* (2001), at 253, 387.

⁴⁷⁰ Liechtenstein Commission, Vol. 3/1, *Liechtensteinische Finanzbeziehungen zur Zeit des Nationalsozialismus* (2005), at 607 n.136.

⁴⁷¹ Hanspeter Lussy, "Ratjen, Adolf", *Historisches Lexikon des Fürstentums Liechtenstein online* (eHLFL), Dec. 31, 2011, https://historisches-lexikon.li/Ratjen,_Adolf.

IV. CREDIT SUISSE'S CLIENT DOCUMENTS AND RECORDKEEPING SYSTEMS

To determine whether Credit Suisse opened or maintained Nazi-linked accounts, the Bank needed to identify and review documents dating back to nearly one hundred years ago. This sort of historic review presented challenges—including that the kinds of records the Bank kept in the 1930s and 1940s differ from those maintained at a modern bank. Beyond that, many records are simply no longer available because they were destroyed over time. Helpfully, Credit Suisse undertook efforts in the 1990s to collect, image, and archive some of its older files, and those efforts resulted in the creation of document databases that could be used to search for certain records of older accounts.

Three surviving sources of documents were most relevant to the current investigation. First, in connection with the historical investigations referenced above in Part II, beginning in 1996, Credit Suisse engaged in a wide-ranging and systematic effort to collect and archive the surviving documents for certain older accounts and to create searchable databases that could be used to identify and review the documents that it collected. Second, alongside that effort, the now-defunct accounting and consulting firm Arthur Andersen engaged in a rigorous effort—as part of the nationwide effort by Swiss banks in the 1990s to identify dormant accounts of Nazi victims—to catalog certain surviving documents from accounts open at the Bank between 1933 and 1945. Third, in the process of Credit Suisse's own late-1990s internal review to identify the Bank's interactions with Nazi Germany and its victims, the Bank's historian also gathered and reviewed certain internal Credit Suisse documents as well as certain public records. The historian's efforts left an additional collection of documents in which the Bank is now able to search for accounts and account-related information.

Those document collection efforts had material limitations for an investigation seeking to identify Credit Suisse's historical ties to Nazis. First, over time Credit Suisse routinely and

periodically destroyed documents in the ordinary course of business—particularly those that related to older and closed accounts—pursuant to Swiss law that permits files to be destroyed after 10 years. In addition, Credit Suisse engaged in a significant document destruction effort in 2016 and 2017, which included destroying older documents for closed accounts. Second, it is not possible to ascertain with any degree of certainty whether the collection efforts of the 1990s imaged and indexed all relevant documents available at that time. If they did not, the fate of those unimaged and unindexed documents is uncertain—either they were destroyed in 2016 and 2017, or they still reside somewhere in the Bank’s surviving physical archives, beyond the reach of a simple computer search.

As the Independent Ombudsperson discussed and senior bank executives agreed at the onset of this engagement, these gaps in the documentary record made it important for Credit Suisse to undertake comprehensive efforts to assess what documents remained at the Bank that might include relevant information about older accounts, including efforts to search the Bank’s physical archives for documents beyond those identified by computer searches. This commitment became even more important after the Ombudsperson and Advisor engaged with SWC and learned that one of SWC’s top concerns was the depth of the Bank’s commitment to search unindexed physical archives.

Working with the Bank and AlixPartners,⁴⁷² the Independent Ombudsperson made several recommendations about how to assess potential available sources of information that might supplement the information collected in the late 1990s, including robust sampling of undigitized

⁴⁷² Credit Suisse’s counsel retained the global consulting firm AlixPartners in December 2020. As discussed above in Part V, AlixPartners was initially directed to conduct a forensic review under the Bank’s counsel’s supervision to assess whether any individuals on the list of UAG members described in the SWC Press Release had been Credit Suisse clients based on a review of certain historical records still in the Bank’s possession and certain publicly available documents.

archival records to determine whether they were likely to contain relevant information. These recommendations leveraged the substantial familiarity of the Ombudsperson's team with the recordkeeping systems of Credit Suisse, based on prior work that the team conducted in connection with the monitorship established by the Bank's settlement with DFS, and were supported by the expertise of FRA, the forensic firm retained by the Ombudsperson, which brought considerable knowledge and skills to bear, including personal experience of FRA team members in the Swiss bank document collection efforts of the 1990s.

Some of the Independent Ombudsperson's recommendations were accepted, at least for a period of time, and others were not. But those efforts, along with the Ombudsperson's ability to access the archives, ended in late June 2022 as described above in Part I.

This Part provides an overview of the Bank's relevant recordkeeping systems for older accounts, how those records are presently organized, and what categories of documents still exist. It begins with a description of the types of information the Bank historically collected about its clients and the Bank's regular recordkeeping requirements for those documents under Swiss law. Next, it discusses efforts in the 1990s to centralize and digitize its older records. Finally, it describes the Bank's destruction of older client files in 2016 and 2017.

A. The Bank's Recordkeeping Systems and Collection of Client Data

The amount and types of information that Credit Suisse maintains about its clients has significantly expanded since the 1930s. The principal surviving document for a Credit Suisse client's account from the 1930s to the 1960s is an "account registry card." Generally speaking, account registry cards from the 1930s and 1940s were predominantly handwritten documents that set forth the client's name and city of residence, the type of account or accounts the client maintained—such as a savings account or a safety deposit box—and the date the account was

opened and closed. The back of an account registry card often included a handwritten notation recording the date on which the account was closed.

Beginning in the 1950s and 1960s, account registry cards were typed, rather than handwritten, and included additional information such as the client's year of birth or full birthdate, street address, and nationality. In some cases, the registry cards from this period included handwritten notations regarding the client's occupation or business. However, the account registry cards usually did not record any information regarding transactions or transfers of funds.

Each Credit Suisse branch maintained a ledger—called a “Depositenhefte”—that set forth the amount held in each account as of a particular date. As part of this investigation, the Bank was able to identify a relatively small number of these ledgers through its electronic searches. In those cases, the ledger may have included some additional information about account balances for the branch's clients, but was of limited use to the investigation because of how that information was recorded. For example, many of the branch ledgers during the 1930s and 1940s that the Bank identified often list only a client's first initial and last name, such that, if the client's first name began with the letter “H,” that first initial could refer to one of a variety of first names that were commonly used in German-speaking countries at that time (*e.g.*, Hans, Heinrich, Helga, Heidi).⁴⁷³ As a result, finding an entry for a hypothetical “H. Mueller” in a ledger (with Hans Mueller representing the German equivalent of an American “John Smith”) might not identify to which particular H. Mueller the corresponding information in the ledger applied. Although Credit Suisse maintained additional information about its clients' accounts during these periods, such as detailed transactional records, such records had already been almost uniformly destroyed by the Bank' prior

⁴⁷³ Knud Bielefeld, *Früher waren die beliebtesten Vornamen viel häufiger* [In the Past, the Most Popular First Names Were Much More Common], BELIEBTE-VORNAME.DE, <https://www.beliebte-vornamen.de/35994-frueher.htm> (last visited Sep. 30, 2022) (analyzing the commonality of first names from 1917 to 2017).

to the collection efforts of the 1990s.⁴⁷⁴

For certain kinds of accounts, Credit Suisse maintained additional information. The Bank retained a different type of account document that recorded a client's purchases and sales of securities (*i.e.*, stocks and bonds). These transactions were recorded in a "depot card," and the type of account was called a "depot account." A depot card included information regarding a client's transactions with respect to a single security. For example, where a client held common stock in two different companies, the Bank maintained separate depot cards for each stock that the client owned. Each card recorded the date of the purchases and sales of the corresponding security, and the amount and value of the security as of the transaction date.

B. Document Retention Obligations

Various Swiss laws, regulations, and guidelines dictate which records must be kept and how long the Bank is required to keep them before they can be destroyed. The Swiss Code of Obligations, which has been in effect since 1911, generally requires Swiss banks to retain business records for 10 years.⁴⁷⁵ Credit Suisse sometimes required documents at their branches to be retained longer, though the document retention policies were not uniform across different subsidiaries or predecessors.⁴⁷⁶ As a result of the routine destruction of documents over the years, many potentially relevant documents are no longer in existence. When Credit Suisse agreed to expand its investigative scope to include the SWC leads, it acknowledged that the prior document destructions meant the Bank should be *more* vigilant and *more* comprehensive in its review than

⁴⁷⁴ See Andersen Report at 237 (noting that large volumes of documents from 1933 to 1945 were destroyed over time as prior to December 1996, Swiss banks were permitted to destroy documents after ten years). Part V.B discusses records that were reviewed in the investigation.

⁴⁷⁵ Article 958f Swiss Code of Obligations (formerly Article 962).

⁴⁷⁶ See, *e.g.*, SVB Bern Branch Document Destruction Protocol (1912–1980); SVB Instruction (October 1935); SKA Instruction (1941); SKA Instructions for Internal Audit (1944); SVB Circular (April 1945); SVB Archive Clerk (Sept. 1960); see also generally Andersen Report at 239–41.

would normally be appropriate in a forensic investigation.⁴⁷⁷

In December 1996, the Swiss parliament issued a federal decree (the “1996 Federal Decree”) that was designed to support the work of the Bergier Commission,⁴⁷⁸ which as discussed above in Part II, was formed to investigate Switzerland’s wartime financial history, including its relationship and transactions with Nazi Germany. The 1996 Federal Decree prohibited Swiss banks from destroying, transferring abroad, or making less accessible any documents that could be useful to the Bergier Commission’s investigation.⁴⁷⁹

The Bank implemented the 1996 Federal Decree by requiring the preservation of every surviving document drafted before October 1996.⁴⁸⁰ The 1996 Federal Decree expired on December 31, 2001.⁴⁸¹ Although there was public reporting of UBS violating this provision through the destruction of documents relevant to the ongoing inquiries,⁴⁸² the Independent Ombudsperson did not identify public reporting of similar allegations against Credit Suisse.

⁴⁷⁷ See November 17, 2021 Meeting between Ombudsperson and Credit Suisse; December 14, 2021 Meeting between Ombudsperson and Credit Suisse.

⁴⁷⁸ The 1996 Federal Decree was titled in German: Bundesbeschluss vom 13. Dezember 1996 betreffend die historische und rechtliche Untersuchung des Schicksals der infolge der nationalsozialistischen Herrschaft in die Schweiz gelangten Vermögenswerte, SR 984 [*Federal Decree of 13 December 1996 concerning the historical and legal investigation of the fate of assets transferred to Switzerland as a result of National Socialist rule*].

⁴⁷⁹ Article 4 1996 Federal Decree.

⁴⁸⁰ W-0002 (June 17, 1997 policy regarding the obligation to preserve and deliver documents: investigation into the fate of assets transferred to Switzerland during the Nazi era). While the 1996 Federal Decree expired on December 31, 2001, the Bank maintained an internal non-destruction order until at least 2003. See I-10010 (October 6, 2003 information sheet on the ban on the destruction of documents as per I-6576 of December 16, 1996 and W-0002 of June 17, 1997); see also I-6576 (October 6, 2003 information sheet on the ban of the destruction of documents and files created prior to October 2, 1996).

⁴⁸¹ See I-10010 (October 6, 2003 information sheet on the ban on the destruction of documents as per I-6576 of December 16, 1996 and W-0002 of June 17, 1997); see also I-6576 (October 6, 2003 information sheet on the ban of the destruction of documents and files created prior to October 2, 1996).

⁴⁸² See, e.g., David E. Sanger, *Swiss Bank Shreds War-Era Data But a Suspicious Guard Halts It*, N.Y. Times (Jan. 15, 1997), <https://www.nytimes.com/1997/01/15/world/swiss-bank-shreds-war-era-data-but-a-suspicious-guard-halts-it.html>.

C. Late 1990s Efforts to Centralize Records from the World War II Era

In the late 1990s, Credit Suisse and Arthur Andersen undertook parallel efforts to centralize and digitize certain older client records, encompassing the period extending back to the 1930s. First, beginning in 1996, the Bank undertook a two-year effort to collect, centralize, index, and digitize certain documents, including certain client files, that were created before 1987 and maintained at its various branches. Second, as discussed above in Part II, as part of the investigations being conducted by the Volcker Commission to identify accounts of Nazi victims, Arthur Andersen created a database of certain client accounts open during the period from 1933 to 1945. Certain surviving client files, however, remain unindexed by either effort, as described below.

In addition, as also addressed above in Part II, in parallel with the Bank's efforts to comply with those governmental decrees, Credit Suisse retained an historian who engaged in a process to gather Bank documents relevant to his investigation of the Bank's interactions with Nazi Germany. After the historian completed his work, the Bank stored his workpapers, which include copies of the documents he collected.

The following discussion summarizes those efforts.

1. Credit Suisse's Record Centralization Process in the 1990s

In 1996, Credit Suisse began a systemized document centralization project that focused on collecting certain documents created prior to 1987.⁴⁸³ This process took approximately two years and involved gathering approximately 168 million physical pages of documents from over 470

⁴⁸³ W-0001 (December 23, 1996 Credit Suisse retention policy); October 13, 2021 Working Paper for Discussion with the Independent Ombudsperson, at 1; Andersen Report at 52. In November 1996, the Bank created a project team that was responsible for establishing a centralized archive for all Bank entities that existed prior to 1946, with the goal of centralizing all surviving documents prior to 1950. However, the scope of that project was expanded to cover all material up to 1986 following the 1996 Federal Decree. Andersen Report at 91.

locations in Switzerland.⁴⁸⁴ Arthur Andersen concluded that the Bank had successfully recovered and centralized the surviving historical documents from the period 1933 to 1945, although it acknowledged that “due to the sheer volume of documents, it is inevitable that some relevant documents have escaped detection.”⁴⁸⁵

The Bank’s collection efforts ultimately resulted in the centralized files being located in two main archives: (1) the Physical Records Archive (“PRA”), which contains client records; and (2) the Central Corporate Archive (“CCA”), which primarily contains corporate records such as board of directors minutes, documents establishing policies and procedures, and ledgers of client account activity that were maintained by the various branch offices. The CCA also includes certain client documents, described below.

a. PRA

Most relevant to this investigation, the PRA currently holds physical documents for accounts labeled with a number or pseudonym to provide added anonymity to the account holder.⁴⁸⁶ Those types of accounts were separately maintained by Credit Suisse during the late 1990s centralization process and the Bank chose not to electronically image them.⁴⁸⁷ However, the Bank maintained an index of the names associated with such accounts, so it is still possible to electronically search that index for a particular client’s name, and then locate an indicator which will tell the individual searching for the records where in the physical archives the relevant

⁴⁸⁴ Andersen Report at 92.

⁴⁸⁵ *Id.*

⁴⁸⁶ Numbered/pseudonym accounts are labeled with a number or a pseudonym in order to provide the client with an additional level of privacy protection, principally with respect to the risk that an unauthorized bank employee would learn the client’s identity. To accomplish that, only a limited number of bank employees are authorized to access the documents or systems with the client’s identity.

⁴⁸⁷ January 26, 2022 Meeting between Ombudsperson and AlixPartners.

documents are supposed to be located.⁴⁸⁸ The technical ability to identify specific physical documents that had the name of a particular Credit Suisse client who maintained a pseudonym or numbered account was a key part of the Bank's forensic review in this matter.⁴⁸⁹

The PRA previously held a large trove of pre-1992 documents for client accounts that were *not* numbered or pseudonym accounts. As part of the 1990s investigations, Credit Suisse devoted considerable resources to imaging documents for these accounts and electronically indexing the client names so that the documents could be searched. These images were preserved in the Bank's FileNet system, which is a searchable database of client information.⁴⁹⁰ The pre-1992 original physical versions of those documents were subsequently destroyed.⁴⁹¹ The process through which the imaged versions of these documents were identified and reviewed during the course of the Bank's investigation is described in Part V below.

b. CCA

The CCA is principally an archive of Credit Suisse's corporate records, such as board meeting minutes, annual reports, account ledgers (*i.e.*, Depositenhefte), and financial statements.⁴⁹² These documents primarily concern corporate matters, such as strategy and sources

⁴⁸⁸ January 26, 2022 Meeting between Ombudsperson and AlixPartners; March 2, 2022 Meeting between Ombudsperson and Credit Suisse.

⁴⁸⁹ January 26, 2022 Meeting between Ombudsperson and AlixPartners; March 2, 2022 Meeting between Ombudsperson and Credit Suisse.

⁴⁹⁰ The categories of the document images include the following: account registry cards of closed SKA accounts from the period 1933–1995; account registry cards from SVB until 1995; documents connected to the blocking and release of German assets by the Swiss Clearing Office during and after WWII; documents connected to the blocking and release of Swiss assets by the United States during WWII; and documents from an archive located in Zurich.

⁴⁹¹ As detailed below, in 2016–17, Credit Suisse destroyed physical documents pertaining to all accounts other than pseudonym or numbered accounts that were not open as of 1992, such that the PRA currently only holds documents that relate to such accounts open as of 1992. However, client records that were open in 1992 are all searchable on Credit Suisse's electronic systems, which hold a significant amount of substantive information regarding clients. August 10, 2021 Credit Suisse Presentation on Record Management Services, at 10, 44; January 26, 2022 AlixPartners Presentation on Data Pools, at 6.

⁴⁹² GP-11011; October 13, 2021 Working Paper for Discussion with the Independent Ombudsperson, at 8.

of revenue and expenses, but these records also sometimes contain references to clients.

The substantial majority of the documents in the CCA cannot be electronically searched using Credit Suisse's existing systems because they have not been scanned or indexed document-by-document.⁴⁹³ Instead, the index of these corporate records describes groups of documents without referencing specific client names or whether they were associated with corporate or client records (*e.g.*, "Davos branch documents").⁴⁹⁴ As a result, the Bank has only a limited ability to electronically search these documents for potentially relevant information. A small number of corporate records, such as certain board meeting minutes, have been imaged and are stored digitally with a full text search facility in what the Bank calls the "ImageArchive ZFA." Just under 1,000 collections (*i.e.*, sets of records) of the roughly 65,000 collections in the CCA are available in this electronic archive.

As noted below, the CCA also contains an unknown number of client records that were transferred to this archive during the centralization process but remain undigitized and unindexed on a document-by-document level.⁴⁹⁵ As part of the late 1990s centralization effort, a portion of the client records in the CCA were indexed to collect only the client name and the record's location in the CCA, but were not imaged.⁴⁹⁶

c. Unresolved Issues Regarding Documents in Physical Archives

Two principal concerns arose during the course of the Independent Ombudsperson's work, which called into question whether the Bank devoted the necessary resources to identify and

⁴⁹³ January 26, 2022 Meeting between Ombudsperson and Credit Suisse; Description of Credit Suisse Banks' Client Data Holdings (1930–1950), at 21.

⁴⁹⁴ October 13, 2021 Working Paper for Discussion with the Independent Ombudsperson, at 3, 5.

⁴⁹⁵ October 13, 2021 Working Paper for Discussion with the Independent Ombudsperson, at 1.

⁴⁹⁶ December 15, 2021 Meeting between Ombudsperson and Credit Suisse.

collect potentially relevant documents stored in its physical archives.⁴⁹⁷

First, there is an unknown number of client records intermingled among the corporate files in the CCA. This is because, during the first three months of the Bank’s effort starting in January 1997 to collect and transfer branch records to a centralized location, both corporate *and* client records that were created before 1950 were sent to the CCA and commingled with one another. After March 1997, corporate records were sent to the CCA and client records were sent to what is now the PRA.⁴⁹⁸ As noted above, although client records in the PRA were then systematically imaged and indexed, a subset of client documents commingled with corporate records in the CCA were not, and, as also noted above, the indexing for those records is either not specific enough (e.g., “Davos branch documents”) to determine whether the records are client or corporate,⁴⁹⁹ or only provides the client’s name and general location in the CCA.⁵⁰⁰ Because the location in the CCA only identifies the box or boxes in which the record is located, Credit Suisse reported that it takes the CCA archivist approximately one hour to retrieve a single record for such indexed, but not imaged, records.⁵⁰¹ As a result, there are an unknown number of pre-1950 client records—including those that could potentially contain evidence of Nazi-related accounts—that remain commingled with corporate records in the CCA and have not been indexed or imaged, or have been indexed but not imaged and require significant resources to locate.⁵⁰²

⁴⁹⁷ Part V.E.2 addresses a separate unresolved issue regarding Credit Suisse’s failure to devote the necessary resources to collect relevant documents.

⁴⁹⁸ October 13, 2021 Working Paper for Discussion with the Independent Ombudsperson, at 1.

⁴⁹⁹ October 13, 2021 Working Paper for Discussion with the Independent Ombudsperson, at 3 (“Client records that are archived in the archive rooms in [redacted] of CCA are physically intermingled with corporate records; there is no distinct metadata element in the archive database that allows to separate the two types.”). Arthur Andersen also indexed and imaged some of the records in the CCA, though, as explained below, Arthur Andersen did not review all the records in the Bank’s archives. *See Andersen Report* at 103.

⁵⁰⁰ December 15, 2021 Meeting between Ombudsperson and Credit Suisse.

⁵⁰¹ January 26, 2022 Meeting between Ombudsperson and Credit Suisse.

⁵⁰² October 13, 2021 Working Paper for Discussion with the Independent Ombudsperson, at 1.

AlixPartners advised that it conducted some sample testing to assess whether the CCA held client documents that were potentially relevant to the investigation. Prior to this testing, the Independent Ombudsperson conveyed to the Bank that SWC believed that it was central to the integrity of investigation that the Ombudsperson participate in that testing, with SWC expressing the fear that without oversight, the Bank might ignore or destroy relevant documents. Although the Bank agreed to include the Ombudsperson in this archival review process, an agreement that was then relayed to SWC, the Bank nonetheless conducted the testing on its own, without oversight. The Bank also never provided the Ombudsperson with the results of AlixPartners' sample testing as it had agreed to do.⁵⁰³

Second, given the limited indexing of the substantial majority of the CCA documents, the Bank initially raised with the Independent Ombudsperson the benefits of having an independent historian advise as to whether there were particular areas within the CCA that could hold information relevant to the Bank's investigation and could be identified through a targeted search.⁵⁰⁴ The Ombudsperson agreed that this was a valuable first step in determining whether a more comprehensive search of the physical archives would be necessary, and indeed, the Bank's own historian, while conducting his limited research as described above in Part II, reviewed Bank archives and was successful in finding relevant information.⁵⁰⁵

But, as set forth above in Parts II and III, the Bank was unable to retain a credible historian to continue the unfinished work of the first historian or otherwise support its investigation of the SWC Leads, in part because it said that the available historians were not willing to work directly

⁵⁰³ Engagement Letter at Sec. III.

⁵⁰⁴ March 2, 2022 Meeting between Ombudsperson and Credit Suisse.

⁵⁰⁵ November 17, 2021 Meeting between Ombudsperson and Credit Suisse.

for the Bank.⁵⁰⁶ Credit Suisse therefore requested that the Independent Ombudsperson find and hire experienced and qualified historians to assist with this task, a step that the Ombudsperson had already contemplated as a means of testing the Bank's work, as reflected by the specific clause in the Ombudsperson's engagement agreement that authorized him to hire historians.⁵⁰⁷ The Ombudsperson then did find and hire qualified historians for this task in Switzerland, including the Independent Historian (whose qualifications are detailed in Parts I and II), who had intimate familiarity with the Bank's archives from his previous work within the archives as a researcher for the Bergier Commission. However, as discussed above in Parts I and III, the Bank ultimately denied the Independent Historian access to the archives.⁵⁰⁸

2. The Arthur Andersen Archive

As described above in Part II, the Volcker Commission was charged in the 1990s with conducting a comprehensive and independent assessment of dormant accounts of victims of Nazi persecution in Swiss banks, such as Credit Suisse, from 1933 to 1945.⁵⁰⁹ To conduct that investigation, the Volcker Commission engaged separate forensic accounting firms for each financial institution, which were charged with collecting and reviewing documents from the bank to which they were assigned with the goal of determining, to the extent possible, whether certain identified victims had held assets at the institution.⁵¹⁰ Arthur Andersen carried out the investigation of Credit Suisse. Although Credit Suisse had already centralized many of the records

⁵⁰⁶ Email from Credit Suisse to Ombudsperson, September 8, 2021; January 27, 2022 Meeting between Ombudsperson and Credit Suisse.

⁵⁰⁷ Engagement Letter at Sec. X.

⁵⁰⁸ Email from Credit Suisse to Ombudsperson, November 8, 2022.

⁵⁰⁹ The Volcker Commission instructed Arthur Andersen, to the extent possible, to *exclude* records of customer accounts that: (1) were not open between 1934 and 1946; (2) belonged to Swiss-domiciled customers, or Swiss customers not domiciled in Axis countries; or (3) were savings accounts that held less than 250 Swiss francs. Andersen Report at 27, 56–57; Volcker Report, *Report on Dormant Accounts of Victims of Nazi Persecution in Swiss Banks* (1999), at 8.

⁵¹⁰ Andersen Report at 24.

by the time Arthur Andersen conducted its investigation, Andersen worked in parallel with Credit Suisse as the documents were put into the archives.⁵¹¹ In addition, Arthur Andersen conducted branch visits, which involved inspecting branch locations to determine whether the relevant archival material had been correctly identified and centralized.⁵¹²

Arthur Andersen reviewed Credit Suisse's records and built a separate archive (the "Andersen Archive") of the physical documents it collected. The Andersen Archive includes certain client records from 1933 to 1945, and related historical information collected from third parties.

Arthur Andersen also created a database to record the information it had centralized (the "Andersen Accounts Database").⁵¹³ This database includes records connected to some 1.1 million accounts and 856,000 customer names.⁵¹⁴ However, due to the volume of client records in the centralized archives, Arthur Andersen was unable to image and review each record that had not already been indexed and imaged by the Bank.⁵¹⁵ Rather, Arthur Andersen identified categories of records that it determined were likely to contain customer records from 1933 to 1945, and then imaged and reviewed records within those categories.⁵¹⁶ Arthur Andersen did not review or image any records that it had decided were unlikely to contain relevant client information.⁵¹⁷ Imaged client records from 1933 to 1945 that Arthur Andersen collected are held in the Andersen Archive

⁵¹¹ Andersen Report at 92, 94.

⁵¹² Andersen Report at 107–10.

⁵¹³ The database described as the Andersen Accounts Database is actually a backup copy of the original. Pursuant to an Independent Ombudsperson recommendation, AlixPartners tested that the backup copy contained the same information as the original, and concluded that it did. FRA conducted an initial assessment of AlixPartners' work and found that it was done in a professional and thorough fashion and did not identify any issues that indicated that AlixPartners' conclusion was incorrect. *See* August 11, 2021 Meeting between Ombudsperson and Credit Suisse; October 14, 2021 Meeting between Ombudsperson and Credit Suisse; October 18, 2021 Meeting between Ombudsperson and Credit Suisse.

⁵¹⁴ Andersen Report at 3, 159.

⁵¹⁵ Andersen Report at 103.

⁵¹⁶ Andersen Report at 103.

⁵¹⁷ Andersen Report at 103.

and are electronically searchable by client.⁵¹⁸

3. The 1990s Bank Historian's Work Papers

As described above and in Part II, in 1996 the Bank retained an historian to conduct a historical review of the Bank's business activities during World War II.⁵¹⁹ As part of that effort, the historian reviewed documents in the Bank's archives to determine whether any of the persons on the 1997 SWC or Nuremberg lists (*i.e.*, persons on a list of Nazis prepared by SWC in 1997 and persons indicted at the Nuremberg trials), as well as certain corporate entities, had an account at Credit Suisse.⁵²⁰ The historian also reviewed certain public records from external sources.⁵²¹ After the historian finished his work, the Bank stored his workpapers, including the files he reviewed. These documents included copies of documents he had collected from the Bank's archives, and AlixPartners advised that the Bank provided all of these documents to both AlixPartners and the Independent Ombudsperson.

D. 2016–2017 Document Destruction

As explained above, under Swiss law, banks must retain client records for at least ten years. As a result, documents from accounts that have been closed for ten or more years generally do not

⁵¹⁸ November 16, 2021 Meeting between Ombudsperson and Credit Suisse. AlixPartners assessed whether the client documents in the Andersen Archive were duplicates of documents that were still in Credit Suisse's possession, and the extent to which the Andersen Archive contained documents that were no longer otherwise held by the Bank. AlixPartners told the Independent Ombudsperson that its assessment was that the documents in the Andersen Archive did not provide any material information about a Bank client that was not already in the Bank's documents (*i.e.*, the document itself was not in the Bank's files, but the client information in that document was in the Bank's files, albeit in a different document). See November 16, 2021 Meeting between Ombudsperson and Credit Suisse; January 27, 2022 Meeting between Ombudsperson and Credit Suisse. As noted in more detail in Part V, Credit Suisse did not allow the Independent Ombudsperson to test AlixPartners' assessments regarding the documents in the Andersen Archive.

⁵¹⁹ Jung, *Zwischen Bundeshaus und Paradeplatz. Die Banken der Credit Suisse Group im Zweiten Weltkrieg* (2001), at 11–12.

⁵²⁰ Jung, *Zwischen Bundeshaus und Paradeplatz. Die Banken der Credit Suisse Group im Zweiten Weltkrieg* (2001), at 16–17.

⁵²¹ Jung, *Zwischen Bundeshaus und Paradeplatz. Die Banken der Credit Suisse Group im Zweiten Weltkrieg* (2001), at 11–12, 17.

need to be retained (unless specifically required to be maintained under a separate law or policy, such as the 1996 regulation that for a time prohibited the destruction of historically significant records). In 2016, the Bank had identified more than a million archive boxes and approximately 10 million microfiches that remained in physical format but were no longer required to be kept under Swiss law, Bank policy, or a litigation hold.⁵²² According to the Bank, the costs of storing these records were substantial. As such, in 2016 and 2017, the Bank undertook a systematic destruction of documents that the Bank determined no longer served a business purpose.⁵²³

During this process, the Bank destroyed approximately 1.27 million archive boxes and 10 million microfiches that contained materials from the period 1894 to 1992.⁵²⁴ This included 9,491 boxes that held documents dated prior to 1981.⁵²⁵ According to Credit Suisse, this destruction of documents was limited in certain key respects. Credit Suisse reported that it did not destroy records located in the PRA associated with numbered or pseudonym accounts, and did not destroy any records located in the CCA.⁵²⁶

⁵²² August 10, 2021 Credit Suisse Presentation on Record Management Services, at 44.

⁵²³ *Id.*

⁵²⁴ *Id.*

⁵²⁵ *Id.* at 46.

⁵²⁶ *Id.* at 10.

V. PRESS RELEASE INVESTIGATION

The impetus for Credit Suisse's investigation was the March 2020 issuance by SWC of its Press Release asserting that a list of Nazis who lived in Argentina before World War II had been uncovered, and that many of those individuals contributed funds to one or more Swiss bank accounts at Credit Suisse predecessor bank SKA.⁵²⁷ The Press Release further alleged that those funds may have been looted from Jewish victims, that the funds may still remain at Credit Suisse in dormant accounts, and that alleged heirs of Nazis on that list had asserted claims to funds held in dormant accounts.⁵²⁸ It also named certain companies with ties to the Nazis and Argentina.⁵²⁹

As discussed above in Part IV, Credit Suisse had over the years destroyed relevant documents that could have informed an investigation into the Press Release's allegations regarding transfers of funds. Presumably as a result of this limitation, Credit Suisse instead focused its investigation on whether there was plausible evidence that the Bank had maintained accounts in Switzerland for any of the individuals on one of the lists described in the Press Release. Credit Suisse—through its outside counsel—hired AlixPartners to conduct this forensic investigation.

AlixPartners designed a thorough review process for determining whether any of the individuals on those lists had once had a Credit Suisse account. For at least those portions of the forensic review that the Independent Ombudsperson was allowed to oversee, AlixPartners executed its work with care and attention to detail. AlixPartners' interim findings, supplemented by the Ombudsperson's testing, showed that it was highly likely that Credit Suisse maintained accounts in Switzerland for eighty individuals who were members of either the Nazi Party in

⁵²⁷ Press Release SWC. As discussed above in Part I, SWC also sent a letter to Credit Suisse on the same day it issued the Press Release, which letter, among other things, set forth the allegations raised in the Press Release. Letter from SWC to Credit Suisse, March 2, 2020.

⁵²⁸ Press Release SWC.

⁵²⁹ *Id.*

Argentina or the UAG, a Nazi-affiliated union in Argentina, including some significant Nazis who played key roles in furthering the Nazis' goals.

Contrary to the assertions of Credit Suisse described above in Part I, there was still a material amount of work to be done to conclude the review when Credit Suisse cut off the Independent Ombudsperson's oversight of AlixPartners' work, including, for example, preparing and providing AlixPartners' final report, finishing the collection of relevant archival documents, responding to the Ombudsperson's discovery of an account that was very likely held by a member of the Argentine Nazi Party, and providing the data and support for the Bank's decision to largely exclude from review accounts at predecessor banks other than SKA.

The Bank, as of the date of the finalization of this Report, also has not reported on its investigation of the Bank of German Labor, a bank that was closely affiliated with the Nazi party, as detailed above in Part II. In September 2021, the Independent Ombudsperson recommended that the Bank look into Credit Suisse's relationship with the Bank of German Labor because, according to the 1941 Argentine Commission Report, that bank had an account at Credit Suisse predecessor SKA. Although the Bank's 2021 Historian later confirmed that the Bank of German Labor did in fact have an account at SKA, and Credit Suisse had indicated that it was considering conducting a forensic review, the Bank has never informed the Ombudsperson what steps, if any, it took to further examine this relationship.

Ultimately, despite committing to SWC that it would do so, and contrary to its written agreement with the Independent Ombudsperson, Credit Suisse did not share with either the Ombudsperson or the Advisor the Bank's complete findings or supporting data, and refused to make AlixPartners available to otherwise present the Bank's findings or to answer the Ombudsperson's questions. Consequently, although the preliminary findings did not suggest to

the Ombudsperson that there were still large numbers of additional accounts held by Nazis in Argentina or members of the UAG to be found in the Bank's files, the lack of transparency and rigorous testing make it impossible to conclude that the investigation was effective. Indeed, such testing, along with implementing the Ombudsperson's recommendations discussed below, would have resulted in a more rigorous and credible investigation that could have potentially lead to the discovery of additional significant Nazi-related accounts. It is also possible that AlixPartners found additional accounts that are not referenced in this Report because they were found after the Bank directed it to no longer communicate with the Ombudsperson.

Although the forensic review produced the key interim findings noted above, some of the allegations in the Press Release were not supported by evidence uncovered by the Bank's investigation that the Independent Ombudsperson oversaw. For example, to the extent the Press Release can be read to allege that certain of the individuals on the list of UAG members transferred accounts to Credit Suisse in their own names which remain dormant at the Bank,⁵³⁰ that allegation was not supported. The allegation that the accounts at Credit Suisse were funded by looted assets was also not proven by the Bank's investigation, although the destruction of documents by the Bank over time, as discussed above in Part IV, would have made it difficult to find such evidence even if it existed. The lack of evidentiary support for these allegations led one senior Bank executive to state in a meeting with the Ombudsperson's team in July 2022 that SWC owed the Bank an apology for the allegations in the Press Release.⁵³¹

This Part describes Credit Suisse's Press Release Investigation, first providing historical context regarding the Nazi Party in Argentina and the UAG. Next, it describes the forensic review conducted by AlixPartners, AlixPartners' interim findings, and the Independent Ombudsperson's

⁵³⁰ See Press Release.

⁵³¹ See July 20, 2022 Meeting between Ombudsperson and Credit Suisse.

testing of the same. This Part also summarizes the publicly available information regarding certain of the most active members of the Nazi Party in Argentina and the UAG, some portion of whom the investigation showed were likely to have been Credit Suisse clients. This Part concludes with a discussion of the additional efforts or assessment needed to ascertain whether Credit Suisse has undertaken all reasonable efforts to identify the members of the Nazi Party in Argentina or the UAG who had accounts at Credit Suisse, particularly considering the Bank's prior significant destruction of documents.

A. The Press Release

The Press Release identified a list of members of the UAG and a list of members of the Nazi Party in Argentina.⁵³² To provide context for the discussion of the Bank's investigation, the following section briefly summarizes publicly available information about those organizations. This section also briefly discusses an additional list of other Argentine-based individuals and entities affiliated with the Nazi Party referenced in the Press Release.

1. The UAG List

As discussed above in Part II, the UAG had its roots in a right-wing antisemitic German trade union that opened a branch in Buenos Aires in 1912.⁵³³ In 1934, this trade union changed its name to the Unión Alemana de Gremios, or UAG, and, in 1936, merged with the Deutsche Arbeitsfront.⁵³⁴ The UAG's main purpose was to serve the goals of the German state and the Nazi

⁵³² See Press Release. The list of UAG members referenced in the Press Release is found in an Annex to the 1941 Argentine Commission's Report No. 5 in the archives of the Argentine Chamber of Deputies.

⁵³³ Heinrich Volberg, *Auslandsdeutschum und Drittes Reich: Der Fall Argentinien* (1981), at 60; Carlota Jackisch, Escuela de Economía y Administración de Empresas, *El Nacionalsocialismo en la Argentina* (May 8, 1988), at 6, https://www.eseade.edu.ar/files/Libertas/43_5_Jackisch.pdf; Alexandra Gerstner, *German National White Collar Association, in 1 Antisemitism: A Historical Encyclopedia* (Richard S. Levy ed. 2005), at 262, 263.

⁵³⁴ Carlota Jackisch, Escuela de Economía y Administración de Empresas, *El Nacionalsocialismo en la Argentina* (May 8, 1988), at 6, https://www.eseade.edu.ar/files/Libertas/43_5_Jackisch.pdf; Heinrich Volberg, *Auslandsdeutschum und Drittes Reich: Der Fall Argentinien* (1981), at 60.

Party by ensuring that labor-management disputes did not result in strikes or work stoppages that could hinder German industry, including those sectors that supported Germany's re-armament in anticipation of World War II.⁵³⁵

Generally speaking, the substantial majority of UAG members self-identified as Germans,⁵³⁶ and included tradesmen, agricultural workers, and laborers (*i.e.*, blue collar workers). In addition, business owners, executives, bank managers, lawyers, and engineers who worked for German companies in Argentina joined the UAG. For example, one UAG member was Peter Gerhard von Siemens, a great-grandson of the founder of Siemens, the German industrial electronics conglomerate, and a senior executive at one of Siemens' subsidiaries in Argentina.⁵³⁷

Approximately 730 of the listed UAG members were also members of the Nazi Party in Argentina.⁵³⁸ Many of the UAG members who were not Nazi party members supported the Nazi cause, either financially, politically, or through more overt action, such as espionage.⁵³⁹ Others may have had little to do with the Nazi Party but joined the UAG in order to be able to find employment in Argentina with German-owned or managed firms. In 1942 the Argentine Interior Ministry ordered the UAG to dissolve due its Nazi ties.⁵⁴⁰

2. The Argentine Nazi Party List

The Press Release noted that in 1938 there were 1,400 members of the Argentine Nazi

⁵³⁵ Comision Investigadora de Actividades Antiargentinas, Informe N° 5, Nov. 28, 1941, at 9-11, 36.

⁵³⁶ See Ronald C. Newton, *The "Nazi Menace" in Argentina, 1931-1947* 70-71 (1992); Volberg, *Auslandsdeutschtum und Drittes Reich. Der Fall Argentinien* (1981), at 62.

⁵³⁷ Siemens, Chairmen of the Supervisory Board of Siemens AG, <https://www.siemens.com/global/en/company/about/history/people/supervisory-board-chairmen-of-siemens-ag.html> (last visited Oct. 27, 2022); Comision Investigadora de Actividades Antiargentinas, Informe N° 5, Nov. 28, 1941, at 221.

⁵³⁸ August 10, 2021 Meeting between Ombudsperson and Credit Suisse.

⁵³⁹ See Part V.D.

⁵⁴⁰ Karl Loewenstein, *Legislation Against Subversive Activities in Argentina*, 56 Harv. L. Rev. 1261, 1284 (1943).

Party, the Nazi Party's foreign affiliate in Argentina,⁵⁴¹ which is consistent with the United States War Department's list of Argentine Nazi Party members published in 1946.⁵⁴² The Nazi Party opened branches outside of Germany to spread Nazi propaganda around the world, collect intelligence, fund social-welfare programs for Germans abroad, and raise funds with the goal of sending foreign currency to the Reichsbank in Berlin to help fund the rebuilding of Germany's industrial capacity, and later, the war effort.⁵⁴³

The Argentine Nazi Party was founded in 1931⁵⁴⁴ and was reportedly the fourth largest Nazi Party outside of the Third Reich in 1937.⁵⁴⁵ Research suggests that through party dues and other contributions, the Nazi Party raised roughly AR\$10,000 per month in Argentina, about 20% of which it remitted to Germany.⁵⁴⁶ The Argentine Nazi Party also spread propaganda in an effort to "persuade the German communities [in Argentina] to join the Nazi cause."⁵⁴⁷ It also blacklisted and pressured Germans and German-owned firms that diverged from the Nazi Party line;⁵⁴⁸ encouraged technicians, skilled workers, and army reservists to return to Germany; and developed an intelligence infrastructure in Argentina.⁵⁴⁹ The Argentine government dissolved the Argentine Nazi Party in 1943.⁵⁵⁰

As with the UAG, the members of the Argentine Nazi Party represented a cross section of Argentine society from store clerks and laborers to bankers and professionals (such as doctors,

⁵⁴¹ Press Release.

⁵⁴² War Department, Senate Committee on Military Affairs, Subcommittee on War Mobilization, 79th Cong., Nazi Party Membership Records (March 1946), at 16-45.

⁵⁴³ Ronald C. Newton, *The "Nazi Menace" in Argentina, 1931-1937* at 55-56 (1992).

⁵⁴⁴ *Id.* at 37.

⁵⁴⁵ *Id.* at 68.

⁵⁴⁶ *See id.* at 56.

⁵⁴⁷ Panagiotis Dimitrakis, *The Hidden War in Argentina* 8 (2019).

⁵⁴⁸ *Id.* at 9.

⁵⁴⁹ Ronald C. Newton, *The "Nazi Menace" in Argentina, 1931-1937* at 70 (1992).

⁵⁵⁰ *Id.* at 68.

lawyers, and engineers), to businessmen of various levels of affluence, including significant business owners.⁵⁵¹ The substantial majority were born in Germany, and some returned to Germany to join its armed forces as members of the Nazi Wehrmacht. Approximately one-half of the members of the Argentine Nazi Party were also members of the UAG.⁵⁵²

3. Additional List

The Press Release also alleged that 8,000 other individuals were affiliated with other Nazi organizations in Argentina in or around 1938.⁵⁵³ In the course of the engagement, the Independent Ombudsperson searched for, but did not find, a list of names corresponding to this claim. The Ombudsperson asked SWC to provide this list but never received it. Although historical sources suggest that numerous Nazi-affiliated organizations were active in Argentina throughout the 1930s and early 1940s, including newspapers, religious organizations, schools, youth groups, social clubs, and charitable organizations—meaning that other individuals in Argentina likely were associated with Nazi-affiliated organizations⁵⁵⁴—without a list of names, Credit Suisse could not further investigate this claim.

B. The Forensic Review

As discussed above in Parts I and IV, as Credit Suisse considered how to investigate the claims in the Press Release, a challenge it faced was that its destruction of documents over the years meant that there were few relevant documents that survived.⁵⁵⁵ The documents that were most relevant to SWC's inquiry, those related to the origin and transfer of funds, were among those

⁵⁵¹ This is based on a comparison of the lists of Argentine Nazi Party and UAG members used in the forensic review.

⁵⁵² August 10, 2021 Meeting between Ombudsperson and Credit Suisse.

⁵⁵³ Press Release.

⁵⁵⁴ Ronald C. Newton, *The "Nazi Menace" in Argentina, 1931–1947* 67–79, 121 (1992).

⁵⁵⁵ Arthur Andersen, LLP, *Final Report on the Second Phase Forensic Accounting Investigation*, July 12, 1999, at 237.

that the Bank destroyed.⁵⁵⁶ This lack of documents meant that the Bank most likely would not be able to determine whether a particular Nazi or UAG member had transferred funds back to Germany, or what happened to those funds. Similarly, the lack of documentation of the origin of funds meant that it would be difficult for the Bank to determine where the account's assets came from, including whether they had been looted from Jewish victims.

This lack of documentation also limited the Bank's ability to tell the full potential history of an account holder's relationship with Credit Suisse, assuming that any of the listed individuals themselves held accounts. By way of illustration, if an account was opened in the 1950's or 1960's by a Nazi, it might be difficult for the Bank to determine whether the funds came from another account previously held at Credit Suisse by the same Nazi using a different name, an intermediary, or a relative who may have hidden the Nazi's assets until after the attention to the Nazi's activities had died down. (For example, it was not uncommon for Nazis in Argentina to use pseudonyms immediately after the war but then return to using their real names in the ensuing decades).⁵⁵⁷

Presumably because of this inherent limitation, in a decision made well before engaging the Independent Ombudsperson or Advisor, Credit Suisse instead focused its investigation on whether there was plausible evidence that the Bank had maintained an account for any of the individuals on one of the lists identified in the Press Release; namely, the members of the UAG.⁵⁵⁸ Although the results of that review would not directly or fully address the claims set forth in the Press Release, the investigation would determine if those accounts were open, closed, or dormant, and add to the historical record by providing important context regarding Credit Suisse's banking relationships with Nazi-affiliated clients in Argentina.

⁵⁵⁶ See Part IV.A.

⁵⁵⁷ Uki Goñi, *The Real Odessa. How Nazi War Criminals Escaped Europe* 124, 196, 198-199, 248, 290 (2022).

⁵⁵⁸ See October 14, 2021 Meeting between Ombudsperson and Credit Suisse.

From the time the Independent Ombudsperson was engaged in June 2021 through June 2022, the Bank and AlixPartners worked constructively with the Ombudsperson with respect to this forensic review. For example, AlixPartners met with the Ombudsperson on a regular basis to discuss the forensic review's processes and rules, and explained, often on a document-by-document basis, their analysis of the evidence regarding whether a particular individual once had a Credit Suisse account. During these sessions, AlixPartners was transparent about its analysis and welcomed the Ombudsperson's observations and insights.

During this period, and pursuant to section 1(a) of the Engagement Letter, the Independent Ombudsperson made a series of recommendations to expand the investigation's scope and to otherwise improve the forensic review of accounts, with a particular focus on ensuring that the review adequately addressed each of the Press Release's claims by incorporating an intensive search for relevant documents that may still exist.⁵⁵⁹ For example, the Ombudsperson recommended, and the Bank agreed, that the review should be expanded to include not just the list of UAG members, but also the list of Nazi Party members in Argentina referenced in the Press Release, as well as certain companies that did business with the Nazis.⁵⁶⁰ The Bank had agreed to adopt certain of these recommendations, and was still considering others, when new leadership over the investigation "placed a hold" on oversight in June 2022.⁵⁶¹

The forensic review process that AlixPartners designed had nine principal steps as described below.⁵⁶²

⁵⁵⁹ Engagement Letter at Sec. I(a)–(b); Letter from Ombudsperson to Credit Suisse, September 10, 2021, at 1–4.

⁵⁶⁰ Letter from Ombudsperson to Credit Suisse, September 10, 2021 at 2; Letter from Credit Suisse to Ombudsperson, September 20, 2021; October 18, 2021 Meeting between Ombudsperson and Credit Suisse.

⁵⁶¹ See, e.g., Letter from Credit Suisse to Ombudsperson, September 20, 2021, at 1; Email from Credit Suisse to Ombudsperson, November 8, 2022.

⁵⁶² AlixPartners, Technical Process Documentation – Project Arthur, July 28, 2021, at 4.

1. Step One: List Preparation

First, AlixPartners scanned and digitized the listed names.⁵⁶³ Where there was an apparent misspelling in the original list (*e.g.*, Henrich vs. Heinrich), AlixPartners added the presumably correct spelling and kept the original as well.⁵⁶⁴ Recognizing that individuals who moved to Argentina during this time period often used the Spanish form of their first name (*e.g.*, Enrique is the Spanish form of Heinrich), or that individuals with a Spanish first name could have used the German form when opening an account in Switzerland, AlixPartners added Spanish versions of certain German first names and vice versa.⁵⁶⁵

Prior to the Independent Ombudsperson's engagement, Credit Suisse only examined the UAG list referenced in the Press Release, but not the Argentine Nazi Party list.⁵⁶⁶ However, the Press Release referred to both lists, and the Argentine Nazi Party list included approximately 700 additional Nazis who were not on the UAG list.⁵⁶⁷ As a result, one of the first recommendations the Independent Ombudsperson made was to include all of these individuals in the Bank's investigation.⁵⁶⁸ The Bank quickly accepted this recommendation.⁵⁶⁹

AlixPartners constructed a review based on these two lists. After removing duplicate names, AlixPartners' list of UAG members had 9,481 entries.⁵⁷⁰ After applying the name variant process described above, that list of names to be name matched expanded to 22,216 entries.⁵⁷¹ The Independent Ombudsperson does not have the figures for the number of name variants associated

⁵⁶³ AlixPartners, Technical Process Documentation – Project Arthur, July 28, 2021, at 5.

⁵⁶⁴ August 11, 2021 Meeting between Ombudsperson and Credit Suisse.

⁵⁶⁵ AlixPartners, Technical Process Documentation – Project Arthur, July 28, 2021, at 5; AlixPartners, Technical Documentation – Digitization of UAG Member List – Project Arthur, July 16, 2021, at 12.

⁵⁶⁶ August 11, 2021 Meeting between Ombudsperson and Credit Suisse.

⁵⁶⁷ August 10, 2021 Meeting between Ombudsperson and Credit Suisse; Letter from Ombudsperson to Credit Suisse, September 10, 2021, at 1–3.

⁵⁶⁸ Letter from Ombudsperson to Credit Suisse, September 10, 2021, at 3.

⁵⁶⁹ Letter from Credit Suisse to Ombudsperson, September 20, 2021, at 1.

⁵⁷⁰ August 11, 2021 Meeting between Ombudsperson and Credit Suisse.

⁵⁷¹ *Id.*

with the names on the Argentine Nazi Party list because Credit Suisse ultimately refused to provide that information in a manner so that it could be included in this Report.⁵⁷²

2. Step Two: Sources of Client Records

AlixPartners next identified the Bank records in which to search for Credit Suisse clients who were members of the Nazi Party in Argentina or the UAG.⁵⁷³ This included the client names that are held in the Bank's modern systems, along with various digitized "data pools" that contain records of historical client information for closed accounts.⁵⁷⁴ Generally speaking, the relevant data pools are databases that usually include two key pieces of information about a particular client: the client's name, and a link to the underlying location of the document in which that client's name appears.⁵⁷⁵ This link typically leads to either an electronic image in the separate FileNet database discussed above in Part IV, or a specified location to an indexed but unscanned physical document in the Bank's archives.⁵⁷⁶ For example, one of the data pools holds information from

⁵⁷² Credit Suisse provided the Independent Ombudsperson an office with a computer system in Zurich. The computer system held, among other things, the presentations that the Bank and AlixPartners made to the Ombudsperson, and the Ombudsperson's work product, including its testing of AlixPartners' interim findings described below. In order for any of these materials to be sent to the United States, they needed to be reviewed by the Ombudsperson's Swiss counsel to ensure that such information would be delivered to the United States in accordance with Swiss law. As a technical matter, transferring the documents from that system to the Independent Ombudsperson's Swiss counsel for review required the Bank's assistance and cooperation. When Credit Suisse replaced Romeo Cerutti as General Counsel, the Bank stopped providing this assistance, thus preventing the Independent Ombudsperson from transferring information about the investigation and the Ombudsperson's oversight from Switzerland to the United States. After the Bank stopped cooperating in this manner, the Ombudsperson requested that the Bank transfer to the Ombudsperson in the United States certain AlixPartners presentations, including those that set forth the number of names that were searched in connection with the list of Argentine Nazi Party members. Credit Suisse did not comply with that request. Email from Ombudsperson to Credit Suisse, October 27, 2022.

⁵⁷³ AlixPartners, Technical Process Documentation – Project Arthur, July 28, 2021, at 6.

⁵⁷⁴ AlixPartners, Technical Process Documentation – Project Arthur, July 28, 2021, at 6-7.

⁵⁷⁵ AlixPartners, Technical Process Documentation – Project Arthur, July 28, 2021, at 6-8; August 11, 2021 Meeting between Ombudsperson and Credit Suisse.

⁵⁷⁶ AlixPartners, Technical Process Documentation – Project Arthur, July 28, 2021, at 6; August 11, 2021 Meeting between Ombudsperson and Credit Suisse.

the FileNet collection of SKA account registry cards for the period beginning in 1933,⁵⁷⁷ including the name of the client on each card, so a hit to a matched name in this data pool would indicate the client's name and provide a link to an electronic image of the SKA account registry card for that client. AlixPartners included 21 of 286 available data pools, based on its determination that the remaining 265 were unlikely to have relevant client information.⁵⁷⁸

3. Step Three: Name Matching

The next step in AlixPartners' review process was to match the names from a particular list to the names of Credit Suisse clients in either the data pools that AlixPartners selected or in the Bank's modern systems.⁵⁷⁹ Credit Suisse used—as it does in the ordinary course of business—an internal name-matching system called “SAMatching Search.”⁵⁸⁰

To cast as wide a net as possible in name matching, AlixPartners set the “accuracy level” for the SAMatching Search algorithm to 80%, which is the lowest possible threshold in that system.⁵⁸¹ The SAMatching Search tool's fuzzy matching algorithm is such that if it were to compare two identical names, but one person's name had the title “Prof.” or “Dr.” preceding it and the other did not, SAMatching Search would report it as a “match” but might give it a lower score.⁵⁸² In contrast, SAMatching Search would score an identical name with the exact same honorific as a 100% match.⁵⁸³ When SAMatching Search determined that there was a name match,

⁵⁷⁷ AlixPartners, Technical Process Documentation – Project Arthur, July 28, 2021, at 6.

⁵⁷⁸ AlixPartners, Overview of Data Pools – Project Arthur, January 26, 2022, at 2-4.

⁵⁷⁹ AlixPartners, Technical Process Documentation – Project Arthur, July 28, 2021, at 6-7.

⁵⁸⁰ August 11, 2021 Meeting between Ombudsperson and Credit Suisse. Credit Suisse maintains a separate system called “SAMatching” for dormant and inactive accounts. AlixPartners, Technical Process Documentation – Project Arthur, July 28, 2021, at 8 n.5.

⁵⁸¹ AlixPartners, Technical Process Documentation – Project Arthur, July 28, 2021, at 8; October 14, 2021 Meeting between Ombudsperson and Credit Suisse.

⁵⁸² AlixPartners, Technical Process Documentation – Project Arthur, July 28, 2021, at 8, 16; October 14, 2021 Meeting between Ombudsperson and Credit Suisse.

⁵⁸³ See AlixPartners, Technical Process Documentation – Project Arthur, July 28, 2021, at 16.

it also identified the documents associated with a Bank client, either through a link to each document's image if it had been scanned electronically, or by a reference to the location in the physical archive where that document resided if it had not.⁵⁸⁴ For the UAG list, the name-matching process produced approximately 21 million document hits, which AlixPartners reduced to approximately nine million documents after eliminating duplicates.⁵⁸⁵

After the name-matching process identified the relevant documents, those that were held in electronic form or as images in FileNet were transferred to AlixPartners' secure review platform for further analysis.⁵⁸⁶ For those documents that were identified, but which were only held in physical form in Credit Suisse's archives, AlixPartners had to then request that an archivist retrieve them on a document-by-document basis.⁵⁸⁷

4. Step Four: Automated Document Review

Once a Credit Suisse document was placed into AlixPartners' electronic reviewing platform, the document needed to be reviewed to determine whether it held relevant information. The volume of results from the name-matching process rendered it impractical to manually review in a timely manner each of the named-matched documents. For example, and as noted above, that process matched approximately nine million documents to the names of UAG members.⁵⁸⁸ AlixPartners developed, prior to the engagement of the Independent Ombudsperson, an automated process (the "Automated Document Review") that was designed to exclude large swaths of documents based on the information about the documents in the Banks' electronic systems.⁵⁸⁹

⁵⁸⁴ AlixPartners, Technical Process Documentation – Project Arthur, July 28, 2021, at 8.

⁵⁸⁵ August 11, 2021 Meeting between Ombudsperson and Credit Suisse.

⁵⁸⁶ AlixPartners, Technical Process Documentation – Project Arthur, July 28, 2021, at 8.

⁵⁸⁷ AlixPartners, Technical Process Documentation – Project Arthur, July 28, 2021, at 8-9. AlixPartners also collected documents held in the Andersen Archive.

⁵⁸⁸ August 11, 2021 Meeting between Ombudsperson and Credit Suisse.

⁵⁸⁹ August 11, 2021 Meeting between Ombudsperson and Credit Suisse; October 14, 2021 Meeting between Ombudsperson and Credit Suisse.

The Automated Document Review excluded documents that satisfied certain criteria that were determined by Credit Suisse.⁵⁹⁰ As discussed in Part V below, one of the exclusion categories was for clients whom the Bank recorded as not having lived in Argentina or a country within the Third Reich as of 1941 (*i.e.*, Austria, Czech Republic, Germany, Hungary, and Poland).⁵⁹¹ For example, if the information about a particular document in the Bank’s systems was that the account was held by a person who lived in Bolivia, then the Automated Document Review would systematically exclude that document from review (unless it was a “Protected Document,” as described immediately below).

In order to reduce the potential for the Automated Document Review to mistakenly weed out relevant client documents, AlixPartners exempted—or protected—the following two categories of documents from the automatic exclusion process. First, documents were protected where the client’s name was both identical to that of an Argentine Nazi Party or UAG member and the client’s reported date of birth was within five years of that member’s date of birth.⁵⁹² Second, the system also preserved from exclusion any documents that included Argentina-related terms, such as “Argentina” and the names of specified cities and towns in Argentina (collectively, the “Protected Documents”).⁵⁹³ The Protected Documents then skipped Step Five and proceeded directly to Step Six, described below.

5. Step Five: Name Combination Review

Even after running the Automated Document Review, there were still too many “hits” to enable a manual document review. AlixPartners therefore further winnowed the remaining documents by assessing whether the name-matching process accurately matched a person on a list

⁵⁹⁰ August 11, 2021 Meeting between Ombudsperson and Credit Suisse.

⁵⁹¹ AlixPartners, Technical Process Documentation – Project Arthur, July 28, 2021, at 14.

⁵⁹² AlixPartners, Technical Process Documentation – Project Arthur, July 28, 2021, at 15.

⁵⁹³ AlixPartners, Technical Process Documentation – Project Arthur, July 28, 2021, at 15.

to a Bank client. This “Name Combination Review” was designed to identify for removal the documents associated with names that did not represent an actual match.⁵⁹⁴

The Name Combination Review, which was performed manually by an AlixPartners reviewer, excluded client names as non-matching unless they were spelled identically to the name of the Argentine Nazi Party or UAG member, but allowed for certain nonidentical names—such as a hyphenated last name, or minor variations in the spelling of German names resulting from variations in the application of umlaut characters (*e.g.*, “Müller” and “Mueller”).⁵⁹⁵ In addition, where there was a spelling or other disqualifying difference, the reviewer had the discretion to keep that client name.⁵⁹⁶ If a reviewer decided that a client name was non-matching, then all documents associated with that client name would be excluded from further review.⁵⁹⁷ On the other hand, if the reviewer determined that it was a match, even if not a perfect one, the documents would be preserved and move on to the next step.⁵⁹⁸

In practice, reviewers looked at a computer monitor that showed the Argentine Nazi Party or UAG member name and the corresponding Credit Suisse client name identified by SAMatching Search using the 80% accuracy level. The reviewers did not look at the underlying client documents, but instead considered the client names as they were provided to SAMatching Search.⁵⁹⁹ By way of illustration, if the name “Karl Muster” was on the Argentine Nazi Party list and SAMatching Search determined that “Carl Muster” was a match, then a reviewer would view

⁵⁹⁴ August 3, 2021 Meeting between Ombudsperson and Credit Suisse.

⁵⁹⁵ AlixPartners, 4.2 Manual False/Positive Name-Combination Review Guideline – Project Arthur, July 29, 2021, at 3-4.

⁵⁹⁶ AlixPartners, 4.2 Manual False/Positive Name-Combination Review Guideline – Project Arthur, July 29, 2021, at 3.

⁵⁹⁷ AlixPartners, Technical Process Documentation – Project Arthur, July 28, 2021, at 15-16.

⁵⁹⁸ AlixPartners, Technical Process Documentation – Project Arthur, July 28, 2021, at 4, 15-17.

⁵⁹⁹ AlixPartners, 4.2 Manual False/Positive Name-Combination Review Guideline – Project Arthur, July 29, 2021 at 3; August 11, 2021 Meeting between Ombudsperson and Credit Suisse.

a screen showing the name “Karl Muster” and the name “Carl Muster.” As described above, AlixPartners’ procedures instructed the reviewer to conclude that the name “Carl Muster” was not a match for “Karl Muster” because the spelling of the client’s first name in the Bank’s records did not match the spelling of the person’s name on the Argentine Nazi Party list. However, the reviewers had the subjective discretion to disregard this rule if they believed that “Carl” was close enough to “Karl” such that the documents should not be excluded at this stage.

6. Step Six: Manual Document Review

The next step was the Manual Document Review, which involved AlixPartners manually reviewing each remaining document in its reviewing platform that had been identified through the name-matching process described above that had not been excluded by the prior steps.⁶⁰⁰ The Manual Document Review—which was the first time that AlixPartners reviewed actual client documents—used the same types of exclusion rules described above (*e.g.*, considering whether the name of the document was the same as the name on one of the lists) but at this stage the reviewers did so by looking at the actual client documents themselves.⁶⁰¹ This was necessary because the Automated Document Review could only weed out documents based on the data in the Bank’s computer systems about the document’s contents, which could be limited. And although AlixPartners’ reviewers conducted the Name Combination Review, that process was based only on the Bank client names, and not the actual underlying documents. At this stage, however, the reviewers looked at the actual document and could, for example, potentially read the handwritten address of the client on the account registry card, information that was not captured in the Bank’s electronic systems.⁶⁰² As during the Name Combination Review, all the reviewers generally

⁶⁰⁰ AlixPartners, Technical Process Documentation – Project Arthur, July 28, 2021, at 17-20.

⁶⁰¹ AlixPartners, Technical Process Documentation – Project Arthur, July 28, 2021, at 17-18.

⁶⁰² AlixPartners, Technical Process Documentation – Project Arthur, July 28, 2021, at 17-19.

applied the same exclusion rules as before (*e.g.*, to see if the names were actual matches), and they also retained discretion to not exclude a document if they believed that the document was still relevant to the forensic investigation.⁶⁰³

7. Step Seven: Bank Person Creation

At this point in the process, AlixPartners had excluded the documents relating to Credit Suisse clients that it had determined, through either automated or manual reviews, were not relevant to the investigation. The remaining documents were all associated with specific client names, but in some cases not necessarily with the same client. By way of illustration, if there was a “Hans Otto” on the UAG list, there could be 45 client documents associated with the name “Hans Otto” which survived the exclusion process described above (*e.g.*, all 45 documents were for Hans Ottos who had been domiciled in Argentina or one of the countries that comprised the Third Reich as of 1941).

The next step was to group the documents that corresponded to a particular client name and to assign each document to a particular client.⁶⁰⁴ Using indicia such as account numbers, AlixPartners identified cases where multiple documents belonged to the same Bank client.⁶⁰⁵ If AlixPartners could not tell if two clients were the same person, it would treat them as distinct from one another.⁶⁰⁶ AlixPartners referred to each such individual as a “Bank Person.”⁶⁰⁷ In other words, there could be fifteen different Bank Persons with the name Hans Otto, so AlixPartners would create Bank Person files for Hans Otto 1, Hans Otto 2, Hans Otto 3, and Hans Otto 4, etc., to house the documents associated with each of them.

⁶⁰³ *Id.*

⁶⁰⁴ AlixPartners, Technical Process Documentation – Project Arthur, July 28, 2021, at 21.

⁶⁰⁵ AlixPartners, Technical Process Documentation – Project Arthur, July 28, 2021, at 21.

⁶⁰⁶ AlixPartners, Technical Process Documentation – Project Arthur, July 28, 2021, at 21; August 11, 2021 Meeting between Ombudsperson and Credit Suisse.

⁶⁰⁷ AlixPartners, Technical Process Documentation – Project Arthur, July 28, 2021, at 21.

In the course of collecting the documents that corresponded to a particular Bank Person, AlixPartners also performed searches of previously excluded documents to try to identify other documents with the same account numbers, or other indicia, to connect them to a Bank Person.⁶⁰⁸ For example, they might run the account number from one of the Hans Otto accounts noted above through its database of documents that it had previously excluded in one of the earlier steps described above to see if there was a hit.

8. Step Eight: Identity Review

The penultimate step was to compare the information known about each Argentine Nazi Party or UAG member that was in the corresponding list, such as the member's birthdate, with the documents associated with the corresponding Bank Persons.⁶⁰⁹ In the substantial majority of cases, AlixPartners reported that there was not enough information or evidence to make a determination as to the likelihood that the Argentine Nazi Party or UAG member was the same individual as the Bank Person.⁶¹⁰ This lack of information in these cases, particularly in light of the Bank's destruction of historical records over time, did not lead AlixPartners to conclude that a particular individual definitively did not have a Credit Suisse account. Instead, AlixPartners reported that there was insufficient information to reach a conclusion.⁶¹¹

In certain cases, AlixPartners could make a determination at this stage that there were what it called "plausible facts" to support the conclusion that the Argentine Nazi Party or UAG person was the Bank Person—in other words, there were "plausible facts" that this person had been a Credit Suisse client.⁶¹² By way of illustration, if the Argentine Nazi Party member was born on

⁶⁰⁸ December 20, 2021 Meeting between Ombudsperson and Credit Suisse.

⁶⁰⁹ AlixPartners, Technical Process Documentation – Project Arthur, July 28, 2021, at 22.

⁶¹⁰ August 11, 2021 Meeting between Ombudsperson and Credit Suisse; October 14, 2021 Meeting between Ombudsperson and Credit Suisse.

⁶¹¹ AlixPartners, Technical Process Documentation– Project Arthur, July 28, 2021, at 23.

⁶¹² August 11, 2021 Meeting between Ombudsperson and Credit Suisse.

January 11, 1905, and a Bank Person had an identical name and date of birth and lived in Buenos Aires, then AlixPartners would determine in its Identity Review that there were “plausible facts” to support the conclusion that this Bank Person was the Argentina Nazi Party member.⁶¹³ In the event AlixPartners decided that there was sufficient information in the documents they had reviewed such that a further investigation using public sources could be productive, then that case would move to the next and final stage—Identity Investigation.⁶¹⁴

9. Step Nine: Identity Investigation

During the Identity Investigation stage, AlixPartners used public sources to research both the Argentine Nazi Party or UAG member and the Bank Person to determine whether there was evidence that the person on the list was the same individual as the Bank Person.⁶¹⁵ AlixPartners considered information available through Internet searches, including Ancestry.com, documents held in the 1941 Argentina Commission’s archive, newspaper articles, death notices, ship manifests, and other public sources.⁶¹⁶ AlixPartners reported that a typical Identity Investigation for a particular individual took a reviewer approximately one day to complete.

From the start of its investigation, the Bank championed the idea that it was essential to have the expertise of trained historians when researching the background of account holders and members of the UAG and Argentine Nazi Party, and even vetted historians for this purpose in the Spring of 2021.⁶¹⁷ The Independent Ombudsperson agreed because, although AlixPartners performed a quality forensic review, its personnel were not trained in historical analysis and did

⁶¹³ AlixPartners, Project Arthur - Internal Guideline for Bank Person Classification in the Identity Review and Identity Investigation, v.0.19, at 2.

⁶¹⁴ AlixPartners, Technical Process Documentation – Project Arthur, July 28, 2021, at 23.

⁶¹⁵ AlixPartners, Technical Process Documentation – Project Arthur, July 28, 2021, at 23-24.

⁶¹⁶ AlixPartners, Technical Process Documentation – Project Arthur, July 28, 2021, at 23-24.

⁶¹⁷ August 11, 2021 Meeting between Ombudsperson and Credit Suisse; October 14, 2021 Meeting between Ombudsperson and Credit Suisse; *see also* AlixPartners, Technical Process Documentation – Project Arthur, July 28, 2021, at 24.

not have the same expertise as an historian in locating and researching relevant sources of information. After the Bank reported that it could not find historians with relevant expertise who were willing to work for it, the Bank asked the Ombudsperson to do so, and, with respect to an Argentine expert, provided the Ombudsperson with a list of historians to contact.⁶¹⁸ As discussed above in Parts I and II, the Ombudsperson identified an Argentine expert who could have assisted with this effort, but after Cerutti was replaced as General Counsel, the Bank changed course and decided not to retain an historian or other expert to work on the Identity Investigation.⁶¹⁹

In its research into the archives of the 1941 Argentine Commission, AlixPartners identified other records with information about UAG members that included the nationality and occupation of certain members.⁶²⁰ The information regarding the UAG member's occupation was oftentimes relevant in those cases where the corresponding Bank Person had an account that held securities. By way of illustration, if an Argentina-based Nazi party member was a lawyer or business executive, during this time period it was more likely that such an individual would have the means to invest in stocks and bonds through a bank account maintained in Switzerland than in those instances where a UAG member was a laborer. AlixPartners did not initially integrate the occupation information from these records into its review, but after urging from the Independent Ombudsperson to leverage that information in its Identity Investigation, AlixPartners ultimately adopted the Ombudsperson's recommended approach.⁶²¹

⁶¹⁸ Email from Credit Suisse to Ombudsperson and Advisor, January 14, 2022; January 27, 2022 Meeting between Ombudsperson and Credit Suisse.

⁶¹⁹ Email from Credit Suisse to Ombudsperson, November 8, 2022; June 15, 2022 Meeting between Ombudsperson and Credit Suisse.

⁶²⁰ August 12, 2021 Meeting between Ombudsperson and Credit Suisse; October 14, 2021 Meeting between Ombudsperson and Credit Suisse; December 14, 2021 Meeting between Ombudsperson and Credit Suisse.

⁶²¹ October 14, 2021 Meeting between Ombudsperson and Credit Suisse; December 14, 2021 Meeting between Ombudsperson and Credit Suisse.

These records were also the basis for one of the Independent Ombudsperson's suggestions, made over the course of meetings with AlixPartners in February and March 2022, as to how to prioritize the Bank's investigation into its relationships with high-ranking Nazis and Ratlines participants as part of the investigation into the SWC Leads, as discussed above in Part III.⁶²² As noted above, the Ombudsperson observed that UAG members of more limited means based on their occupation were less likely to have had opened a bank account in Switzerland, as compared to a UAG member who was a business executive or lawyer.⁶²³ In light of this, the Ombudsperson recommended that the Bank use occupational information to prioritize its review of UAG members to first focus on the UAG members who were executives and professionals.⁶²⁴ That would allow the Bank to turn its attention to the investigation of the high-ranking Nazis and Ratlines participants, before returning to address the UAG members who were less likely to have had a bank account in Switzerland because of their occupation. AlixPartners advised that the Bank did not adopt this suggestion because the Bank wanted to finish the review of all listed UAG members as promptly as possible, before moving onto the expanded areas for investigation described above in Part III.⁶²⁵

C. AlixPartners' Interim Results

After the available documents that corresponded to a particular name on the Argentine Nazi Party or UAG list had been excluded or reviewed pursuant to the process described above, AlixPartners assigned the interim result for each such name to a particular category.⁶²⁶ These categories ranged from Category 1A (denoting those cases where there was "reasonable evidence"

⁶²² February 9, 2022 Call between Ombudsperson, Advisor, and Credit Suisse.

⁶²³ See October 14, 2021 Meeting between Ombudsperson and Credit Suisse.

⁶²⁴ November 17, 2021 Meeting between Ombudsperson and Credit Suisse; February 9, 2022 Call between Ombudsperson, Advisor, and Credit Suisse.

⁶²⁵ See February 15, 2022 Call between Ombudsperson and AlixPartners.

⁶²⁶ August 11, 2021 Meeting between Ombudsperson and Credit Suisse.

that a person on the Argentine Nazi Party or UAG lists had maintained an account at Credit Suisse), to Category 3C (for those names on the Argentine Nazi Party or UAG list where the name-matching process did not identify any relevant documents). AlixPartners' categorization scheme allowed the Independent Ombudsperson to tailor testing of the interim results to the corresponding category, and to thereby efficiently allocate resources during this process. As discussed above, Credit Suisse shut down the Ombudsperson's oversight and access to information before AlixPartners provided the final data and results of its forensic review, thus preventing the Ombudsperson from testing them.

The first two categories, 1A and 1B, were assigned to those cases where AlixPartners determined that there were "plausible facts" that the Argentine Nazi Party or UAG member had been a Credit Suisse client. Category 1A denoted a stronger case, in that AlixPartners concluded that there was "reasonable evidence" that the Argentine Nazi Party or UAG member was the same person who had a Credit Suisse account. The Category 1B cases were those where AlixPartners identified "specific supporting facts" that the subject of the investigation had a Credit Suisse account.

According to the preliminary results of its still ongoing work that were provided to the Independent Ombudsperson in May 2022, AlixPartners had by that time already concluded that there were "plausible facts" to establish that 25 individuals who had Credit Suisse accounts were either Argentine Nazi Party members (some of whom were also UAG members) or prominent German citizens living in Argentina who were so closely affiliated with Nazis that AlixPartners determined it appropriate to include them in its interim results regarding the members of Argentine Nazi Party. The Ombudsperson performed an independent review of the documents in the Bank's possession as well as publicly available information for each of these individuals and concluded

that it was highly likely that all 25 of these individuals had been Credit Suisse clients.

As discussed below, the Independent Ombudsperson determined through testing of AlixPartners' interim results that it was highly likely that an additional Argentine Nazi Party member had a Credit Suisse account, which AlixPartners had previously excluded from further review. Because the Bank did not provide the Ombudsperson with a formal report regarding the forensic review's findings and cut off AlixPartners from having substantive communications with the Ombudsperson, the Ombudsperson does not know whether AlixPartners and the Bank included this Nazi in their final results, or whether any other Nazis may have been found after providing the Ombudsperson with preliminary findings as of May 2022.

With respect to the individuals on the UAG list, AlixPartners' interim conclusion was that there was "plausible evidence" that 54 of these individuals had Credit Suisse accounts. The Independent Ombudsperson independently reviewed these cases and concluded that it was highly likely that these UAG members had accounts at the Bank. Most of these accounts, as well as those of the members of the Argentine Nazi Party discussed above, were opened after World War II, and the Ombudsperson did not identify evidence that any of the accounts remained currently open or dormant. The surviving records for these accounts that were made available to the Ombudsperson do not indicate the source of an account's funds, the deposits and withdrawals made while the account was open, or to where any remaining funds were transferred when the account was closed.

To the extent the Press Release can be read to allege that a substantial percentage of the individuals on a list of 12,000 Argentine Nazis transferred accounts to Credit Suisse in their own names which remained dormant at the Bank,⁶²⁷ that allegation was not supported, at least by the preliminary findings shared with the Independent Ombudsperson. As with the Nazi lists, Credit

⁶²⁷ See Press Release.

Suisse did not allow AlixPartners to provide the Ombudsperson with updated information after May 2022, so it remains unknown whether it found additional likely UAG client accounts in its final results or if it found transactional documents related to such accounts.

The remaining six categories were for those cases where AlixPartners did not identify “plausible facts” that supported the conclusion that the Argentine Nazi Party or UAG member had a Credit Suisse account, as set forth in the following table:

Category	AlixPartners’ Conclusion	Typical Example
2A	Lack of specific supporting facts to conclude that the person had an account	Bank Person and Argentine Nazi Party member have the same name, which is common, and both lived in a large city, with no additional information to make a match
2B	“Insufficient facts” that the person had an account	Name match without any further information
2C	“Disconfirming facts” that the person had an account	Name match but Bank Person was too young to have an account to match the Argentine Nazi Party member
3A	“Reasonable evidence” that the person did not have an account	The Bank Person and Argentine Nazi Party member have the same name, but different dates of birth
3B	All documents for the client were excluded through automated or manual reviews	The Bank Person was a Swiss citizen
3C	No name match to any Bank document	The name-matching process did not match any Bank client to the Argentine Nazi Party member

Given the possibility that a Category 2A case could have included stronger evidence that the Argentine Nazi Party or UAG member had a Credit Suisse account, the Independent Ombudsperson reviewed these cases. In each review, the Ombudsperson agreed with

AlixPartners' assessment and found that there was insufficient information to conclude that it was highly likely that the Argentine Nazi Party or UAG member had a Credit Suisse account. Again, that is not to say that individuals in this category were definitively *not* Credit Suisse clients; but, given Credit Suisse's extensive destruction of documents over the course of several decades, together with the limitations that the Bank had placed on AlixPartners' work that are described below (such as largely excluding accounts held at Credit Suisse predecessors other than SKA), there was not enough evidence on the review platform to come to a conclusive determination that these individuals were, or were not, Bank clients.

As the Independent Ombudsperson's sample testing confirmed that AlixPartners' manual review of a particular document had an extremely low error rate (*i.e.*, AlixPartners' reviewers were diligent and rarely incorrectly read the document's contents), the Ombudsperson determined that the greater risk was that automated and manual exclusions could have resulted in overlooking a likely Credit Suisse client. Accordingly, the Ombudsperson conducted sample testing of each of the populations of documents that were excluded.

One exclusion criterion, applied in both the Automated Document Review and the Manual Document Review steps, was that any client whom the Bank recorded as living in, or being a citizen of, a country other than Argentina or any of the countries that comprised the Third Reich as of 1941, was withdrawn from the review.⁶²⁸ This exclusion was based on Credit Suisse's incorrect assumption that each listed member of the Argentine Nazi Party or the UAG would have lived in Argentina or one of the countries that comprised the Third Reich as of 1941 at the time they could have had an account at the Bank.⁶²⁹ Although this assumption applied to the substantial

⁶²⁸ As discussed above, if a document were a Protected Document it would not be removed from the review during the Automated Document Review.

⁶²⁹ See August 11, 2021 Meeting between Ombudsperson and Credit Suisse; AlixPartners, Technical Process Documentation – Project Arthur, July 28, 2021, at 14.

majority of the members of the Argentine Nazi Party and the UAG, it was not always the case.

The Independent Ombudsperson's testing determined that a Bank client with an account at SKA in the 1950s—who was excluded from further review during the Manual Document Review stage because the Bank's documents recorded that the client lived in Bolivia—was very likely the same individual who was on the list of Argentine Nazi Party members included in AlixPartners' forensic review.⁶³⁰ The Ombudsperson identified through research into ancestral records that the Argentine Nazi Party member lived in the same city and country as the Bank client and in the same decade. Notably, the Argentine Nazi Party member was an executive at a company that had had close ties to Nazi activities during World War II. AlixPartners had previously classified that case as Category 3B (*i.e.*, all documents for the client were excluded through automated or manual reviews) because the Bank's records indicated that the individual lived in Bolivia (*i.e.*, a country that was not Argentina or within the Third Reich).

Credit Suisse has not provided the Independent Ombudsperson with a final report of AlixPartners, so the Ombudsperson does not know whether this Nazi was included in its list of those who likely had accounts at Credit Suisse.

D. Argentine Nazi Party and UAG Members Who Highly Likely Had Credit Suisse Accounts

As discussed above, the Independent Ombudsperson determined that as of the last date that the Bank provided data to the Ombudsperson, it was highly likely that 26 individuals who were either members of, or closely associated with, the Argentine Nazi Party, and 54 members of the UAG had accounts at Credit Suisse. Their names and other relevant details were maintained in

⁶³⁰ As discussed above, AlixPartners excluded the two documents based upon the same exclusion criteria it applied in the Automated Document Review. These documents only survived the Automated Document Review and were excluded in the Manual Document Review because data in the Bank's systems did not record the account holder's domicile. That information was only included in the Bank's documents.

the Bank's and AlixPartners' files when Credit Suisse shut down the Ombudsperson's oversight of the investigation.

Before that time, the Ombudsperson had recommended to Credit Suisse that the Bank, together with the Ombudsperson, seek guidance from the appropriate Swiss authorities as to whether Swiss law allowed for the disclosure of the names of Nazis or UAG members who likely held accounts at Credit Suisse, in light of the public interest in documenting this critical period in history, and in bringing greater transparency to the question of Swiss banks' relationships with Nazis and Nazi-affiliated individuals, or if an exception could be granted, similar to the one that was given with respect to the Bergier Commission. As of the date of the finalization of this Report, Credit Suisse had not adopted the Ombudsperson's recommendation.

Swiss law, however, does unambiguously allow discussion of publicly available information about members of the Argentine Nazi Party or the UAG.⁶³¹ Publicly available information demonstrates that several members of the Argentine Nazi Party and the UAG were actively involved in furthering the Nazis' goals in Argentina, including by serving in prominent positions such as the head of the Gestapo in Argentina, and after World War II by helping Nazis who had fled Europe to Argentina via the Ratlines, including the notorious war criminal Josef Mengele. Various others were involved in significant activities in Argentina to further Nazi goals, including through financial support and supporting propaganda.

The Independent Ombudsperson was able to determine, based on the testing of the interim results of AlixPartners' forensic review, that some number of those higher profile participants in significant Nazi activities were likely to have been Credit Suisse account holders. Although this Report does not name those particular Nazis or UAG members who had such accounts, the

⁶³¹ See Art. 47 of the Swiss Federal Act on Banks and Savings Banks (Banking Act) of November 8, 1934, SR 952.0; Günter Stratenwerth, *Basler Kommentar BankG* (2013), Art. 47 n. 13.

Ombudsperson can provide a listing and description of certain members of the Argentine Nazi Party and the UAG who engaged in significant Nazi activities and indicate that some portion of the people described were identified by the investigation as likely having Credit Suisse accounts.

That list is as follows:

- Attorney. He joined the Argentine Nazi Party in January 1932.⁶³² He was an attorney,⁶³³ and according to materials collected by the 1941 Argentine Commission, was reportedly an unofficial leader of the Nazis in Argentina who personally directed espionage activities in the country and dispatched voluminous correspondence to Germany via air mail express.⁶³⁴ He kept a framed photograph in his bedroom of him and his wife with Adolf Hitler.⁶³⁵
- Bank Executive. He joined the Argentine Nazi Party in April 1934,⁶³⁶ and the UAG in July 1936.⁶³⁷ He was the director of a bank in Argentina⁶³⁸ and acted as the financial head of the UAG.⁶³⁹ He was the director of the bank when it was investigated for allegedly collecting economic information on the Patagonia region of Argentina, as well as the racial makeup of the population, for the purpose of colonizing it as part of the German *Lebensraum* (habitat) and economic sphere.⁶⁴⁰ On April 1, 1939, he was questioned by the Argentina police in Buenos Aires relating to the plot to annex Patagonia.⁶⁴¹

⁶³² War Department, Senate Committee on Military Affairs, Subcommittee on War Mobilization, 79th Cong., Nazi Party Membership Records (March 1946), at 25.

⁶³³ War Department, Senate Committee on Military Affairs, Subcommittee on War Mobilization, 79th Cong., Nazi Party Membership Records (March 1946), at 25.

⁶³⁴ Patrimonio Legislativo, Comisión Especial Investigadora de Actividades Antiargentinas (1941 - 1943), Inventario de la Comisión, Capital Federal - Denuncias Varias, Foliación: 311, Caja: 23, Legajo: 10; Inventario de la Comisión, Capital Federal - Denuncias Varias, Foliación: 331, Caja: 23, Legajo: 10.

⁶³⁵ Patrimonio Legislativo, Comisión Especial Investigadora de Actividades Antiargentinas (1941 - 1943), Inventario de la Comisión, Capital Federal - Denuncias Varias, Foliación: 331, Caja: 23, Legajo: 10.

⁶³⁶ War Department, Senate Committee on Military Affairs, Subcommittee on War Mobilization, 79th Cong., Nazi Party Membership Records (March 1946), at 31.

⁶³⁷ Camara de Diputados de La Nacion, Lista de Afiliados a la Union Alemana de Gremios, at 162.

⁶³⁸ Comision Investigadora de Actividades Antiargentinas, Informe No. 5, November 28, 1941, at 114

⁶³⁹ Brigadier Sir David Petrie, MI-5 U.K. Security Service, Memorandum on the Auslands-Organisation and German Activities in South America, at 26 (June 1941), <https://tinyurl.com/47ztyatz>.

⁶⁴⁰ Richard L. McGaha, The Politics of Espionage: Nazi Diplomats and Spies in Argentina, 1933-1945, at 84-85 (2009) (dissertation presented to the Faculty of Arts and Sciences of Ohio University).

⁶⁴¹ Richard L. McGaha, The Politics of Espionage: Nazi Diplomats and Spies in Argentina, 1933-1945, at 85-86 (2009) (dissertation presented to the Faculty of Arts and Sciences of Ohio University).

- Bank Manager. He joined the Argentine Nazi Party in August 1935,⁶⁴² and the UAG the following month.⁶⁴³ He was a manager at a bank that reportedly transferred Nazi funds from Argentina to Germany.⁶⁴⁴ Shortly after arriving in Buenos Aires in June 1949, Josef Mengele stayed at the home of the Bank Manager's son.⁶⁴⁵ Beginning in 1951, Mengele lived in the Bank Manager's home in Buenos Aires for several years, which was known as being a center of operations for the Ratlines to Argentina.⁶⁴⁶
- Electronics Executive. He joined the UAG in 1936.⁶⁴⁷ In 1940, he became head of an X-ray and electro-medical equipment company in Buenos Aires.⁶⁴⁸ During World War II, the company's parent transferred capital and assets to Argentina.⁶⁴⁹ After the war, he was interned in Buenos Aires and returned to Germany in 1948.⁶⁵⁰
- Espionage Leader. He joined the Argentine Nazi Party in May 1937.⁶⁵¹ He was the South American head of a Nazi propaganda and espionage agency.⁶⁵² He appeared before the 1941 Argentine Commission and gave false testimony about the company's expenses, deliberately obscuring monthly transfers of funds from the Nazi Party in Berlin to

⁶⁴² War Department, Senate Committee on Military Affairs, Subcommittee on War Mobilization, 79th Cong., Nazi Party Membership Records (March 1946), at 32.

⁶⁴³ Camara de Diputados de La Nacion, Lista de Afiliados a la Union Alemana de Gremios, at 163.

⁶⁴⁴ Marcelo Garcia, Mengele en Argentina: la misteriosa Muerte de Nora Eldodt [Mengele in Argentina: The mysterious death of Nora Eldodt], canal26.com, <https://www.canal26.com/historia/mengele-en-argentina-la-misteriosa-muerte-de-nora-eldodt--321858>.

⁶⁴⁵ Uki Goñi, The Real Odessa. How Nazi War Criminals Escaped Europe at 358 (2002).

⁶⁴⁶ Marcelo Garcia, Mengele en Argentina: la misteriosa Muerte de Nora Eldodt [Mengele in Argentina: The mysterious death of Nora Eldodt], canal26.com, <https://www.canal26.com/historia/mengele-en-argentina-la-misteriosa-muerte-de-nora-eldodt--321858> (last visited Jan. 17, 2023); Vistante No Ilustre, 60 años del arribo de Mengele a Sudamérica, Montevideo Portal, <https://www.montevideo.com.uy/ZZZ-No-se-usa/60-anos-del-arribo-de-Mengele-a-Sudamerica-uc85590> (last visited Jan. 17, 2023).

⁶⁴⁷ Comision Investigadora de Actividades Antiargentinas, Informe No. 5, November 28, 1941, at 221.

⁶⁴⁸ Siemens, Chairmen of the Supervisory Board of Siemens AG, <https://www.siemens.com/global/en/company/about/history/people/supervisory-board-chairmen-of-siemens-ag.html> (last visited Oct. 27, 2022).

⁶⁴⁹ Alleged Swiss Collaboration With the Nazis and the Smuggling of German Looted Property to Argentina, Senate Congressional Record Volume 142, Number 55, S4253-S4256 (Thursday, April 25, 1996) (Statement of Sen. Alfonse D'Amato), <https://www.govinfo.gov/content/pkg/CREC-1996-04-25/html/CREC-1996-04-25-pt1-PgS4253-2.htm>.

⁶⁵⁰ Siemens, Chairmen of the Supervisory Board of Siemens AG, <https://www.siemens.com/global/en/company/about/history/people/supervisory-board-chairmen-of-siemens-ag.html> (last visited Dec. 14, 2022).

⁶⁵¹ War Department, Senate Committee on Military Affairs, Subcommittee on War Mobilization, 79th Cong., Nazi Party Membership Records (March 1946), at 38.

⁶⁵² Hugo Fernandez Artucio, The Nazi Underground in South America (1942), at 92-94, and 236.

his office in Buenos Aires.⁶⁵³

- Executive. He joined the Argentine Nazi Party in October 1939.⁶⁵⁴ According to materials collected by the 1941 Argentine Commission, he was the head of marketing for a company indirectly owned by IG Farben, and the company's office in Buenos Aires played a central role in spreading Nazi propaganda throughout Argentina.⁶⁵⁵ He pressured newspapers, particularly those outside of Buenos Aires, to publish Nazi propaganda in exchange for his company buying advertisements for its products. Under his direction, his company did not advertise with newspapers that declined to publish Nazi propaganda.⁶⁵⁶
- German Embassy Economic Officer. He joined the Argentine Nazi Party in January 1933,⁶⁵⁷ and the UAG in August 1934.⁶⁵⁸ He was head of the Argentine Nazi Party's economic office in Germany's Buenos Aires embassy.⁶⁵⁹ He pressured German companies operating in Argentina to fire Jewish employees, and if they did not, threatened that they would be the subject of a boycott similar to the April 1933 boycott of Jewish businesses in Germany.⁶⁶⁰ He blacklisted German firms that were not sufficiently pro-Nazi, and forced German businesses to support the Argentine Nazi Party.⁶⁶¹ In May 1942, he was ordered to be expelled from Argentina due to his activity on behalf of the Nazis.⁶⁶²
- German Embassy Press Attaché. He joined the UAG in July 1935.⁶⁶³ He was reportedly the head of the Gestapo for South America.⁶⁶⁴ The U.S. Federal Bureau of Investigation suspected that the company he

⁶⁵³ Hugo Fernandez Artucio, *The Nazi Underground in South America* (1942), at 93-94.

⁶⁵⁴ War Department, Senate Committee on Military Affairs, Subcommittee on War Mobilization, 79th Cong., *Nazi Party Membership Records* (March 1946), at 25.

⁶⁵⁵ Patrimonio Legislativo, Comisión Especial Investigadora de Actividades Antiargentinas (1941 - 1943), *Inventario de la Comisión, Capital Federal - Denuncias Varias*, Foliación: 96-97, Caja: 23, Legajo: 10.

⁶⁵⁶ Patrimonio Legislativo, Comisión Especial Investigadora de Actividades Antiargentinas (1941 - 1943), *Inventario de la Comisión, Capital Federal - Denuncias Varias*, Foliación: 96-97, Caja: 23, Legajo: 10.

⁶⁵⁷ War Department, Senate Committee on Military Affairs, Subcommittee on War Mobilization, 79th Cong., *Nazi Party Membership Records* (March 1946), at 42.

⁶⁵⁸ Camara de Diputados de La Nacion, *Lista de Afiliados a la Union Alemana de Gremios*, at 169.

⁶⁵⁹ Richard L. McGaha, *The Politics of Espionage: Nazi Diplomats and Spies in Argentina, 1933-1945*, at 49 (2009) (dissertation presented to the Faculty of Arts and Sciences of Ohio University).

⁶⁶⁰ Richard L. McGaha, *The Politics of Espionage: Nazi Diplomats and Spies in Argentina, 1933-1945*, at 50 (2009) (dissertation presented to the Faculty of Arts and Sciences of Ohio University).

⁶⁶¹ Richard L. McGaha, *The Politics of Espionage: Nazi Diplomats and Spies in Argentina, 1933-1945*, at 50 (2009) (dissertation presented to the Faculty of Arts and Sciences of Ohio University).

⁶⁶² Patrimonio Legislativo, Comisión Especial Investigadora de Actividades Antiargentinas (1941 - 1943) *Seguimientos: informes*, Foliación: 142-143, Caja: 16.

⁶⁶³ Camara de Diputados de La Nacion, *Lista de Afiliados a la Union Alemana de Gremios*, at 165.

⁶⁶⁴ Patrimonio Legislativo, Comisión Especial Investigadora de Actividades Antiargentinas (1941 - 1943), *Inventario de la Comisión, Nazismo -4-*, Foliación: 152, Caja: 1, Legajo 6.

worked for, and his office in particular, were covers “for the movement of German agents, funds, and propaganda materials from Europe to South America.”⁶⁶⁵ He also served as the press attaché in the German embassy in Buenos Aires, and arranged for the financing of newspapers in Argentina that promoted Nazi propaganda.⁶⁶⁶ In August 1941, facing imminent arrest due to his actions on behalf of the Nazis, he left Argentina on a flight operated by a Nazi-affiliated aviation company.⁶⁶⁷

- Gestapo Leader. He joined the UAG in June 1937.⁶⁶⁸ He reportedly acted as the Supreme Head of the Gestapo and Assault Forces in Argentina.⁶⁶⁹ In this capacity, he “frequently received leaders and members of the National Socialist entities with whom he held lengthy interviews and meetings that were highly suggestive.”⁶⁷⁰ At the end of 1934 and the beginning of 1935, several attacks were committed against synagogues that were inspired by these meetings.⁶⁷¹ During this time he made a wide-ranging tour of Argentina with the “exclusive purpose of controlling the German entities [and] giving instructions to their leaders...”⁶⁷²
- Pharmaceutical Executive. He joined the Argentine Nazi Party in November 1931,⁶⁷³ and the UAG in November 1938.⁶⁷⁴ He owned a pharmaceutical distributorship and was head of the Argentine Nazi Party from 1933 to 1935.⁶⁷⁵ During this period, he also served as the head of the Nazi Party for Central and South America, and in that capacity he supervised all district leaders, directorates, and secretariats in Central and South America, including special representatives of the SS and the Gestapo.⁶⁷⁶

⁶⁶⁵ Richard L. McGaha, *The Politics of Espionage: Nazi Diplomats and Spies in Argentina, 1933-1945*, at 53 (2009) (dissertation presented to the Faculty of Arts and Sciences of Ohio University).

⁶⁶⁶ Richard L. McGaha, *The Politics of Espionage: Nazi Diplomats and Spies in Argentina, 1933-1945*, at 53, 132 (2009) (dissertation presented to the Faculty of Arts and Sciences of Ohio University).

⁶⁶⁷ Hugo Fernandez Artucio, *The Nazi Underground in South America* (1942) at 35, n1; Patrimonio Legislativo, *Comisión Especial Investigadora de Actividades Antiargentinas* (1941 - 1943), Ministerio de Hacienda - Dirección General de Aduanas, Foliación: 140, Caja: 16, Legajo, 17.

⁶⁶⁸ Camara de Diputados de La Nacion, *Lista de Afiliados a la Union Alemana de Gremios*, at 190.

⁶⁶⁹ Comision Investigadora de Actividades Antiargentinas, *Informe No. 1*, Agosto 29 de 1941, at 15, 16.

⁶⁷⁰ Comision Investigadora de Actividades Antiargentinas, *Informe No. 1*, Agosto 29 de 1941, at 16.

⁶⁷¹ Comision Investigadora de Actividades Antiargentinas, *Informe No. 1*, Agosto 29 de 1941, at 16.

⁶⁷² Comision Investigadora de Actividades Antiargentinas, *Informe No. 1*, Agosto 29 de 1941, at 16.

⁶⁷³ War Department, Senate Committee on Military Affairs, Subcommittee on War Mobilization, 79th Cong., *Nazi Party Membership Records* (March 1946), at 18.

⁶⁷⁴ Camara de Diputados de La Nacion, *Lista de Afiliados a la Union Alemana de Gremios*, at 154.

⁶⁷⁵ Hugo Fernandez Artucio, *The Nazi Underground in South America* (1942), at 28; Richard L. McGaha, *The Politics of Espionage: Nazi Diplomats and Spies in Argentina, 1933-1945*, at 32 (2009) (dissertation presented to the Faculty of Arts and Sciences of Ohio University).

⁶⁷⁶ Hugo Fernandez Artucio, *The Nazi Underground in South America*, at 28 (1942).

- Propaganda Official. He joined the Argentine Nazi Party in June 1936,⁶⁷⁷ and the UAG in January 1939.⁶⁷⁸ He served as the deputy to the head of the Nazi Party for South and Central America.⁶⁷⁹ He was responsible for the Nazi Bureau of Propaganda in the region and oversaw several Nazi-affiliated cultural organizations.⁶⁸⁰
- Propagandist. He joined the Argentine Nazi Party in February 1939.⁶⁸¹ He was an electrical foreman at a company which manufactured arms and counted Hermann Goering as one of its investors.⁶⁸² The company's offices were alleged to have doubled as the general headquarters of the Argentine Nazi Party.⁶⁸³ He was one of the principal members of the Nazi Party at the company, where Nazi party members distributed anti-Argentine propaganda materials to subordinates during work hours and pressured German workers to join the party.⁶⁸⁴ Those who resisted were penalized and threatened with reprisals against family members remaining in Germany.⁶⁸⁵ Some were reportedly expelled from the company as punishment for not joining the Argentine Nazi Party.⁶⁸⁶
- Teacher. He joined the Argentine Nazi Party in July 1933.⁶⁸⁷ He was a teacher at a school in Buenos Aires, and a local leader of the Argentine Nazi Party.⁶⁸⁸ The school was reportedly affiliated with the Nazi Party, and its teachers were considered as being sympathetic to the Nazis'

⁶⁷⁷ War Department, Senate Committee on Military Affairs, Subcommittee on War Mobilization, 79th Cong., Nazi Party Membership Records (March 1946), at 37.

⁶⁷⁸ Camara de Diputados de La Nacion, Lista de Afiliados a la Union Alemana de Gremios, at 221.

⁶⁷⁹ Hugo Fernandez Artucio, The Nazi Underground in South America, at 28-29 (1942).

⁶⁸⁰ Hugo Fernandez Artucio, The Nazi Underground in South America, at 28-29 (1942).

⁶⁸¹ War Department, Senate Committee on Military Affairs, Subcommittee on War Mobilization, 79th Cong., Nazi Party Membership Records (March 1946), at 20.

⁶⁸² Alleged Swiss Collaboration With the Nazis and the Smuggling of German Looted Property to Argentina, Senate Congressional Record Volume 142, Number 55, S4254, April 25, 1996 (Statement of Sen. Alfonse D'Amato), <https://www.govinfo.gov/content/pkg/CREC-1996-04-25/html/CREC-1996-04-25-pt1-PgS4253-2.htm>; Patrimonio Legislativo, Comisión Especial Investigadora de Actividades Antiargentinas (1941 - 1943), Inventario de la Comisión, Material de Investigación 3, Foliación: 89-90, Caja: 17.

⁶⁸³ Patrimonio Legislativo, Comisión Especial Investigadora de Actividades Antiargentinas (1941 - 1943), Inventario de la Comisión, Material de Investigación 3, Foliación: 89-90, Caja: 17.

⁶⁸⁴ Patrimonio Legislativo, Comisión Especial Investigadora de Actividades Antiargentinas (1941 - 1943), Inventario de la Comisión, Material de Investigación 3, Foliación: 89-90, Caja: 17.

⁶⁸⁵ Patrimonio Legislativo, Comisión Especial Investigadora de Actividades Antiargentinas (1941 - 1943), Inventario de la Comisión, Material de Investigación 3, Foliación: 89-90, Caja: 17.

⁶⁸⁶ Patrimonio Legislativo, Comisión Especial Investigadora de Actividades Antiargentinas (1941 - 1943), Inventario de la Comisión, Material de Investigación 3, Foliación: 89-90, Caja: 17.

⁶⁸⁷ War Department, Senate Committee on Military Affairs, Subcommittee on War Mobilization, 79th Cong., Nazi Party Membership Records (March 1946), at 17.

⁶⁸⁸ Comision Investigadora de Actividades Antiargentina, Informe No. 4, Sept. 30, 1941, at 39.

goals.⁶⁸⁹

- Teacher. He joined the Argentine Nazi Party in December 1934.⁶⁹⁰ He was a teacher at the same Nazi-affiliated school noted above, and a local leader of the Argentine Nazi Party.⁶⁹¹
- UAG Official. He joined the Argentine Nazi Party in January 1931,⁶⁹² and the UAG in January 1937.⁶⁹³ In 1939, he was taken into custody for questioning by Argentine police in Buenos Aires.⁶⁹⁴ The Argentine authorities believed he was involved in the illegal practice of deducting funds from employees' wages without their permission, and redirecting those funds to the UAG.⁶⁹⁵

E. The Independent Ombudsperson's Outstanding Recommendations to Improve the Forensic Review

As discussed above, the Independent Ombudsperson made several recommendations to improve the forensic review.⁶⁹⁶ The Bank adopted and implemented several of these recommendations, while others were still under consideration in June 2022.⁶⁹⁷ By letter dated August 26, 2022 (the "August 2022 Letter"), Credit Suisse informed the Ombudsperson that the Bank had completed its work on the Press Release Investigation, and as discussed below, presented the Bank's position regarding certain of the Ombudsperson's outstanding recommendations.⁶⁹⁸ It left others unaddressed.

1. Recommendations to Broaden Scope

⁶⁸⁹ Comision Investigadora de Actividades Antiargentina, Informe No. 4, Sept. 30, 1941, at 61-67.

⁶⁹⁰ War Department, Senate Committee on Military Affairs, Subcommittee on War Mobilization, 79th Cong., Nazi Party Membership Records (March 1946), at 30.

⁶⁹¹ Comision Investigadora de Actividades Antiargentina, Informe No. 4, Sept. 30 1941, at 39.

⁶⁹² War Department, Senate Committee on Military Affairs, Subcommittee on War Mobilization, 79th Cong., Nazi Party Membership Records (March 1946), at 22.

⁶⁹³ Camara de Diputados de La Nacion, Lista de Afiliados a la Union Alemana de Gremios, at 206.

⁶⁹⁴ Richard L. McGaha, The Politics of Espionage: Nazi Diplomats and Spies in Argentina, 1933-1945, at 86 (2009) (dissertation presented to the Faculty of Arts and Sciences of Ohio University).

⁶⁹⁵ Richard L. McGaha, The Politics of Espionage: Nazi Diplomats and Spies in Argentina, 1933-1945, at 86 (2009) (dissertation presented to the Faculty of Arts and Sciences of Ohio University).

⁶⁹⁶ Letter from Ombudsperson to Credit Suisse, September 10, 2021, at 1-4.

⁶⁹⁷ See, e.g., Letter from Credit Suisse to Ombudsperson, September 20, 2021, at 1.

⁶⁹⁸ Letter from Credit Suisse to Ombudsperson, August 26, 2022, at 3-5.

As noted above in Parts I and III, the Engagement Letter provided that the scope of the overall engagement could be expanded if Credit Suisse agreed with the Independent Ombudsperson's assessment that such an expansion was necessary. It was under that provision that the Bank expanded the scope of its overall investigation to the SWC Leads. But the Engagement Letter also contemplated that the Ombudsperson would make more granular scope expansion recommendations with respect to the Press Release Investigation. In section I(a) it states that the Ombudsperson is to "[p]rovide input and recommendations on the scope, methodology and approach of the investigation commissioned by [Credit Suisse] and undertaken by [Credit Suisse] Agents, monitor and sample test their work, and assess whether it is suitable for the purpose of identifying as much information as reasonably possible regarding the allegations made in the March 2, 2020 press release issued by the SWC."⁶⁹⁹ The Ombudsperson made the recommendations discussed below in accordance with this provision.

a. Exclusion of Credit Suisse Predecessors

At the outset of the engagement, Credit Suisse explained that the forensic review would be limited to accounts held at SKA because the Press Release only specifically mentioned that particular Credit Suisse predecessor. However, a fair reading of the Press Release was that it more broadly referred to accounts at the relevant Credit Suisse predecessors (*i.e.*, those banks that historically could have maintained accounts or provided financial services for Argentine Nazi Party or UAG members).⁷⁰⁰ In September 2021, the Independent Ombudsperson recommended that all of the Bank's applicable predecessor entities be within the scope of the Bank's investigation, and not just SKA.⁷⁰¹ SWC subsequently confirmed to the Ombudsperson and Advisor that it never intended

⁶⁹⁹ Engagement Letter at Sec. I(a).

⁷⁰⁰ Letter from Ombudsperson to Credit Suisse, September 10, 2021, at 2-3.

⁷⁰¹ *Id.* at 4.

to limit its allegations to just SKA and advised the Ombudsperson that it agreed with this recommendation.⁷⁰²

Credit Suisse considered this recommendation for a time, but formally rejected it in August 2022. At that time, the Bank asserted that it “has included in its investigation those predecessor entities and available data pools that were relevant to the concerns articulated in the SWC Press Release.”⁷⁰³ That position suggests that the Bank did not adopt the Independent Ombudsperson’s recommendation, and, as discussed below, is not supported by the forensic review that AlixPartners conducted while the Ombudsperson had the opportunity to observe and test its work or the results of the historical reviews.

The forensic review process excluded Credit Suisse predecessors other than SKA in the following two ways.

- First, the review did not access all the available information that was available for two Credit Suisse predecessor entities, Neue Aargauer Bank (“NAB”) and Credit Suisse Trust. As discussed above, the Bank maintains data pools that hold historical information for closed accounts. The Independent Ombudsperson identified twelve data pools for non-SKA predecessors that were not included in the forensic review: four data pools regarding clients of NAB, a former Credit Suisse subsidiary that was merged into the Bank in 2020, and eight data pools that hold client data from Credit Suisse Trust entities.⁷⁰⁴
- Second, the forensic review procedures provided for documents from predecessors other than SKA to be excluded during the Automated Document Review and Manual Document Review stages, although reviewers had the discretion to retrieve such documents during the Bank Person Creation, as explained above in Part V.B.

To be sure, AlixPartners advised the Independent Ombudsperson that it subjectively

⁷⁰² See, e.g., Email from Ombudsperson to Credit Suisse, May 23, 2022; see November 12, 2021 Call between Ombudsperson and SWC; see November 22, 2021 Call between Ombudsperson and SWC.

⁷⁰³ Letter from Credit Suisse to Ombudsperson, August 26, 2022, at 4.

⁷⁰⁴ It is possible that some documents from NAB and Credit Suisse Trust were included in other data pools that AlixPartners selected, but the Independent Ombudsperson was unable to test this due to Credit Suisse shutting down the Ombudsperson’s oversight.

expanded its review to include accounts outside SKA in certain instances,⁷⁰⁵ but due to Credit Suisse shutting down the Ombudsperson's oversight of the investigation, the Bank did not provide a formal report explaining when AlixPartners included documents from predecessors other than SKA, and the justifications for when it did so and when it did not. Without that explanation and the access to information needed to test AlixPartners' conclusions, the Ombudsperson cannot conclude that the review process was sound in this respect.

Moreover, Credit Suisse's decision to largely exclude from the forensic review all predecessors other than SKA was not supported by the findings of the Bergier Commission, the Ombudsperson's Independent Historian, and Credit Suisse's own historian, who all made clear that Credit Suisse's other predecessor banks—such as Bank Leu, Fides, and others—participated in activities that looted funds from Nazi victims and serviced Nazi perpetrators.⁷⁰⁶ For example, and as described above in Part II, the Bergier Commission found that Bank Leu agreed to buy over 100 million French francs that had been looted by the Nazis from a German bank,⁷⁰⁷ and Credit Suisse's historian reported that Bank Leu was significantly involved in the Aryanization of several Jewish companies.⁷⁰⁸ As discussed above in Part III, the Independent Historian noted a Liechtenstein Commission report indicated that SS Officer Friedrich Schwend, a famed Nazi counterfeiter who later played a key role in a Ratline that Nazis used to escape to South America, maintained an account with Bank Leu after the war.⁷⁰⁹ Credit Suisse's historian also found that

⁷⁰⁵ December 14, 2021 Meeting between Ombudsperson and Credit Suisse; March 3, 2022 Meeting between Ombudsperson and Credit Suisse; March 2, 2022 Meeting between Ombudsperson and Credit Suisse.

⁷⁰⁶ *Supra* Part II.A.

⁷⁰⁷ Bergier Commission, Vol. 25, *Aspects des relations financières franco-suisse (1936–1946)* (2002), at 122–27.

⁷⁰⁸ Joseph Jung, *Zwischen Bundeshaus und Paradeplatz. Die Banken der Credit Suisse Group im Zweiten Weltkrieg* (2001), at 124.

⁷⁰⁹ *Supra* Part III.D.

SBKA, another predecessor bank of Credit Suisse, sold securities possibly looted by the Nazis on behalf of a company then-blacklisted by the Allies, in a transaction the Swiss authorities classified as “the most questionable from a moral standpoint.”⁷¹⁰

b. Identifying Accounts held by Nazi-Affiliated Entities

In September 2021, the Independent Ombudsperson also recommended that AlixPartners include in its review the corporate entities specifically mentioned in the Press Release and, as mentioned above, the Nazi-affiliated bank named in the 1941 Argentine Commission Report.⁷¹¹ The Press Release mentioned three entities: IG Farben, Banco Alemán Transatlántico, and Banco Germánico de América del Sur.⁷¹² IG Farben supplied the poison gas used in Nazi concentration camps to slaughter the Nazis’ victims; according to the Press Release, the two identified banks “‘apparently served for Nazi transfers on the way to Switzerland.’”⁷¹³ In addition, the Ombudsperson recommended that Credit Suisse address the Bank’s transactions with the Nazi-affiliated bank, the Bank of German Labor, that according to the 1941 Argentine Commission Report, held an account at SKA.⁷¹⁴

Later that month, Credit Suisse reported that it had “already initiated efforts to address aspects of the review related to” this recommendation.⁷¹⁵ In October 2021, AlixPartners told the Independent Ombudsperson that the forensic review procedures described above would need to be modified to address the differences between accounts held by individuals and those held by

⁷¹⁰ Joseph Jung, *Zwischen Bundeshaus und Paradeplatz. Die Banken der Credit Suisse Group im Zweiten Weltkrieg* (2001), at 101; Bergier Commission, Vol. 25, *Aspects des relations financières franco-suisse (1936-1946)* (2002), at 122-27.

⁷¹¹ Letter from Ombudsperson to Credit Suisse, September 10, 2021, at 2, 4.

⁷¹² Press Release.

⁷¹³ *Id.*

⁷¹⁴ Letter from Ombudsperson to Credit Suisse, September 10, 2021, at 2; Cámara de Diputados de La Nación, Comisión Investigadora de Actividades Antiargentinas, Informe No. 5 (Nov. 28, 1941), at 40, 83, 261.

⁷¹⁵ Letter from Credit Suisse to Ombudsperson, September 20, 2021, at 1.

entities, and that therefore this aspect of the review would be undertaken after AlixPartners had made additional progress with respect to its review of the members of the Argentine Nazi Party and UAG.⁷¹⁶ However, AlixPartners did not advise that it had conducted any forensic investigation into the entities that were the subject of the recommendation before the Bank shut down the Ombudsperson's oversight of the investigation.

In its August 2022 Letter, Credit Suisse stated that it had expanded AlixPartners' review to include IG Farben, Banco Alemán Transatlántico, and Banco Germánico de América del Sur, and that the Bank's investigative report will include a "high-level description of the relevant findings" regarding those entities.⁷¹⁷ But Credit Suisse did not share those findings, any of AlixPartners' research into these entities, or the relevant documents in the Bank's possession, prior to shutting down the Independent Ombudsperson's oversight of the Bank's investigation. Even if it had done so, without also providing access to the methodology and source material underlying it, the Ombudsperson could not meaningfully assess those findings.

The August 2022 Letter did not address the Independent Ombudsperson's recommendation that the investigation address Credit Suisse's transactions with the Nazi-affiliated bank, the Bank of German Labor.⁷¹⁸ As noted above, the 2021 Historian concluded that the Bank of German Labor had an account at Credit Suisse predecessor SKA, and the Bank did not update the Ombudsperson regarding what forensic steps it took, if any, or even whether it had accepted or rejected this recommendation.

2. Recommendations to Review Documents and Databases

⁷¹⁶ October 18, 2021 Meeting between Ombudsperson and Credit Suisse; November 16, 2021 Meeting between Ombudsperson and Credit Suisse.

⁷¹⁷ Letter from Credit Suisse to Ombudsperson, August 26, 2022, at 4.

⁷¹⁸ Letter from Credit Suisse to Ombudsperson, August 26, 2022; Letter from Ombudsperson to Credit Suisse, September 10, 2021, at 2.

The Engagement Letter provided for the Independent Ombudsperson to “[a]ssess whether the review included all reasonably available relevant digital and physical databases and repositories at CSAG and, to the extent relevant, its current and former subsidiaries and affiliates for purposes of its investigation[.]”⁷¹⁹ The following section discusses two recommendations that the Ombudsperson made pursuant to this provision of the Engagement Letter, and which were unresolved when Credit Suisse shut down the Ombudsperson’s oversight of the investigation.

a. Lack of Resources to Collect Archived Documents

As discussed above in Part IV, the documents for pseudonym and numbered accounts are largely undigitized and are held only in physical form in Credit Suisse’s PRA archive. Certain documents for other types of accounts are also only held in physical form in the CCA archive. After the name-matching process identified a physical document as potentially relevant to the investigation, AlixPartners requested that the Bank’s archivist collect the document from the archives. If retrieved, the document would then be imaged and loaded on AlixPartners’ electronic platform for review in accordance with the process described above. The Bank reported that, on average, it took the archivist’s team approximately one hour to collect each document.⁷²⁰

Prior to Credit Suisse’s decision to terminate the Independent Ombudsperson’s oversight, AlixPartners informed the Ombudsperson that it had not received all of the documents in the physical archive that had been identified through the name-matching process because the Bank did not devote the resources necessary to timely retrieve those documents.⁷²¹ The Ombudsperson recommended that the Bank devote additional resources to timely collect such documents, but the Bank advised that the investigation’s budget did not provide for the hiring of additional

⁷¹⁹ Engagement Letter at Sec. I(b).

⁷²⁰ January 26, 2022 Meeting between Ombudsperson and Credit Suisse.

⁷²¹ November 16, 2021 Meeting between Ombudsperson and Credit Suisse; December 14, 2021 Meeting between Ombudsperson and Credit Suisse.

archivists.⁷²² Given this limitation, AlixPartners prioritized the retrieval of documents for pseudonym and numbered accounts.⁷²³

After the Bank promised that it would investigate the SWC Leads that are described above in Part III, the Independent Ombudsperson agreed with AlixPartners' decision to hold off on retrieving the additional archived documents related to name matches on the UAG list.⁷²⁴ That prioritization would allow the Bank's archivist to first retrieve documents that might prove relevant to the additional areas of investigation described above in Part III, such as matches to high-ranking Nazis or facilitators who helped those Nazis escape via the Ratlines. The Bank, as described above in Part III, did not complete its investigation into the SWC Leads,⁷²⁵ yet apparently did not then reprioritize its archival reviews in order to finish the work that it had started.

Given that Credit Suisse shut down the Independent Ombudsperson's oversight of the investigation and did not provide a final report regarding the Press Release Investigation's conclusions, the Ombudsperson does not know whether Credit Suisse ultimately collected all of the identified documents for AlixPartners' review. But it seems unlikely given the speed in which the investigation was concluded.⁷²⁶

b. Review of Dormant Account Claimant Database

One of the Press Release allegations was that heirs of Nazis have sought to claim funds held in dormant accounts.⁷²⁷ One of the first recommendations the Independent Ombudsperson made was that the investigation should include a review of the database called DAIM that recorded

⁷²² June 15, 2022 Meeting between Ombudsperson, Advisor, and Credit Suisse.

⁷²³ March 2, 2022 Meeting between Ombudsperson and Credit Suisse.

⁷²⁴ November 16, 2021 Meeting between Ombudsperson and Credit Suisse; December 14, 2021 Meeting between Ombudsperson and Credit Suisse.

⁷²⁵ Letter from Credit Suisse to Ombudsperson, August 26, 2022, at 5-7.

⁷²⁶ See Letter from Credit Suisse to Ombudsperson, August 26, 2022.

⁷²⁷ Press Release.

how the Bank addressed claims made by people who previously asserted that they held an interest in a dormant account, including those who claimed to be heirs of Nazis,⁷²⁸ so that AlixPartners and the Ombudsperson could build on those efforts and evaluate their prior effectiveness.⁷²⁹ As discussed above in Part III, the Ombudsperson later recommended that the investigation also consider the information regarding the Bank's investigations into claims by heirs held in a separate database used by legal and compliance.⁷³⁰ In its August 2022 Letter, Credit Suisse reported that AlixPartners' research into DAIM produced no relevant findings and was silent with respect to the separate database used by legal and compliance.⁷³¹ However, once again, the Bank did not provide the results of AlixPartners' review to the Ombudsperson before shutting down the Ombudsperson's oversight.⁷³²

⁷²⁸ Letter from Ombudsperson to Credit Suisse, September 10, 2021, at 3–4.

⁷²⁹ *Id.* at 3.

⁷³⁰ *Supra* Part III.A.

⁷³¹ Letter from Credit Suisse to Ombudsperson, August 26, 2022, at 5.

⁷³² *Id.*

VI. THE INDEPENDENT ADVISOR'S REPORT

In June 2021, Credit Suisse engaged Ira Forman as Independent Advisor to provide Credit Suisse and the Ombudsperson “with relevant historical and cultural context and insights related to the Holocaust and disputes over Holocaust restitution, advice, and feedback from stakeholders and other interested parties that relates to attitudes, opinions, and perspectives regarding” the SWC Press Release allegations.⁷³³ Throughout his engagement, the Independent Advisor worked hand in hand with the Independent Ombudsperson, who relied heavily on the Advisor in drafting his Report. The Ombudsperson is grateful and appreciative for the remarkable work and commitment offered by the Advisor throughout this engagement.

Pursuant to his engagement agreement, the Independent Advisor is required “at or around the termination of the Engagement of the Advisor,” to submit “a report detailing his respective work, including his review and findings during his engagement,” to be included by the Ombudsperson in this Report.⁷³⁴ The following constitutes the Report of the Independent Advisor.

A. Background Concerning the Independent Advisor

Forman served as the U.S. State Department’s Special Envoy to Monitor and Combat Antisemitism from May 2013 to January 2017.⁷³⁵ He is currently a Visiting Professor and Senior Fellow at Georgetown University’s Center for Jewish Civilization and a Senior Fellow at the Moment Institute, where he tracks antisemitic incidents around the world through his Antisemitism Monitor database.⁷³⁶ He served for nearly 15 years as the Executive Director of the National

⁷³³ Engagement Letter between Credit Suisse and Advisor, at 1.

⁷³⁴ *Id.* at Sec. V.a.

⁷³⁵ See *Ira Forman*, Georgetown Univ., <https://gufaculty360.georgetown.edu/s/contact/00336000019HQ6VAAW/ira-forman>.

⁷³⁶ See *Ira Forman*, Georgetown Univ., <https://gufaculty360.georgetown.edu/s/contact/00336000019HQ6VAAW/ira-forman>; *The Moment Team*, Moment Mag., <https://momentmag.com/about/#team>.

Jewish Democratic Council, and he worked as Legislative Liaison and Political Director for the American Israel Public Affairs Committee.⁷³⁷ He has also written extensively on the subjects of antisemitism and American Jewry, including co-editing and writing for the reference book *Jews in American Politics*.⁷³⁸ Moreover, he has authored numerous opinion columns as well as articles for the *Encyclopedia Judaica*.⁷³⁹

B. The Work of the Independent Advisor

The Independent Advisor's work entailed communications with relevant stakeholders, providing oversight of the Bank's investigation, and providing advice to Credit Suisse and the Ombudsperson.

1. Communicating with Stakeholders

Credit Suisse engaged Forman as Independent Advisor to communicate with stakeholders, including SWC, other Jewish non-governmental organizations, academic institutions, museums, "government bodies," and "other relevant stakeholders and experts."⁷⁴⁰

In furtherance of those responsibilities, the Independent Advisor's work included (a) building a relationship with SWC to obtain information Credit Suisse sought about SWC's investigation, as described by the Ombudsperson in his Report; (b) interfacing with Jewish community leaders about the potential impact of the Bank's investigation on Jewish communities; and (c) communicating with historians and research institutions in aid of identifying experts that the Ombudsperson could rely on in carrying out his oversight.⁷⁴¹ In addition, the Independent Advisor also communicated with certain current and former U.S. government officials with

⁷³⁷ See Ira Forman, Georgetown Univ., <https://gufaculty360.georgetown.edu/s/contact/00336000019HQ6VAAW/ira-forman>.

⁷³⁸ *Id.*

⁷³⁹ *Id.*

⁷⁴⁰ Engagement Letter between Credit Suisse and Advisor (June 23, 2021), Attachment A.

⁷⁴¹ *Id.*

relevant experience and responsibilities.

Throughout this process, the Independent Advisor generally kept Credit Suisse informed about who he was meeting with and the reasons for those meetings.

a. Communications with SWC

Within a week of engaging Forman, Credit Suisse wrote to SWC to inform SWC of his hiring, stating he would serve as an “independent advisor” to the Bank’s investigation—the results of which the Bank stated it would share with SWC.⁷⁴² Credit Suisse described Forman and Barofsky’s role as “overseeing the AlixPartners review and any subsequent actions [the Bank] takes in response to it.”⁷⁴³ In a follow-up letter to SWC in July 2021, Credit Suisse stated that Forman and Barofsky were “engaged explicitly to ensure that the review we now have underway is conducted appropriately, and that the concerns for which you have provided specific information to us are thoroughly and transparently addressed.”⁷⁴⁴ As described in Part I above, Credit Suisse also stated that it sought to obtain information from SWC about concerns “above and beyond those documented in the March 2020 press release” and encouraged SWC to share the information confidentially with Forman and Barofsky, who could “use it to further direct the work of AlixPartners.”⁷⁴⁵

After Credit Suisse made this offer to SWC, Forman worked to build the necessary relationship with SWC, including through numerous calls, emails, and in-person meetings in Los Angeles and Washington, D.C. Based on his background and experience, and prior personal relationships with SWC’s leadership, Forman helped establish trust between SWC and

⁷⁴² Letter from Credit Suisse to SWC, June 24, 2021; Letter from Credit Suisse to SWC, March 4, 2020.

⁷⁴³ Letter from Credit Suisse to SWC, June 24, 2021.

⁷⁴⁴ Letter from Credit Suisse to SWC, July 21, 2021.

⁷⁴⁵ *Id.*

Barofsky.⁷⁴⁶ As described above in Parts I and III, these efforts eventually resulted in SWC sharing certain of its investigative findings with Barofsky and Forman, which led the Bank to agree to expand the scope of its investigation under independent oversight.

b. Communications with Jewish Community Leaders

Forman engaged in outreach efforts to Jewish community leaders and leaders of Jewish non-governmental organizations in various countries around the world. These efforts were designed in part to solicit assistance in identifying relevant documents and archives to inform the work of Credit Suisse and the Independent Ombudsperson, as well as to identify leads for historians, discussed further below. During communications with those community leaders, Forman was mindful of antisemitism targeting local Jewish communities in the 1990s. At that time, as the investigations described above in Part II of the Ombudsperson's Report were occurring, Swiss banks and U.S. Jewish organizations were at loggerheads over restitution of Holocaust-era Jewish assets. This led to increased antisemitic sentiments that were reflected in public statements by officials at the time. For instance, the Economics Minister Jean-Pascal Delamuraz, who held Switzerland's rotating presidency of the Federal Council of Switzerland at that time, called Jewish demands for recompense "ransom and blackmail," and accused those making the demands of intending to "destabliz[e]" Switzerland and cause the "demolition of the financial place of Switzerland."⁷⁴⁷ Similarly, Christoph Blocher, then leader of the second largest political group in Switzerland, stated in a 1997 speech that "[t]he Jews are only interested in money."⁷⁴⁸ Other overt statements of antisemitism followed: For instance, a cartoon in the Swiss

⁷⁴⁶ March 3, 2022 Meeting between Advisor, Ombudsperson, and Credit Suisse.

⁷⁴⁷ Anne Swardson, *Swiss Regrets Remarks On Jewish Demands*, Wash. Post (Jan. 16, 1997), <https://www.washingtonpost.com/archive/politics/1997/01/16/swiss-regrets-remarks-on-jewish-demands/3ccec3f6-a0a7-40c9-9e6f-dc1e4268a91d/>.

⁷⁴⁸ Stuart E. Eizenstat, *Imperfect Justice*, PublicAffairs (2003) at 340.

press depicted under the caption “Switzerland under pressure” a drawing of “a Jew holding a press, crushing mother Switzerland into disgorging gold.”⁷⁴⁹ One Swiss citizen was quoted as saying, “The Jews . . . were squeezing Switzerland like a lemon. Why do they pick on us? What about the Swedes, the French and the Dutch? Weren’t they worse?”⁷⁵⁰ Forman thus wanted to ensure that stakeholders from Jewish communities in Switzerland, Argentina, and the United States were alerted to this new investigative process on Nazi assets well before any findings of the investigation were made public. He also aimed to solicit these communities’ views about how the Bank’s approach to the investigation might affect the likelihood of any antisemitic backlash similar to what occurred in the 1990s. These communications were taken with the Bank’s knowledge and consent.

At the time these initial meetings with Jewish organizations occurred, mostly in the fall of 2021 and spring of 2022, Forman and Barofsky informed them—as was correct at the time—that Credit Suisse had pledged to conduct a thorough and transparent investigation, to pursue leads, to fully cooperate with their oversight, and to make the results of the investigation publicly available. In part because of the Bank’s commitment to own up to its history and its cooperation with the Independent Ombudsperson and Advisor, the leadership of the Jewish organizations with whom they met generally expressed a belief in a low probability of antisemitic backlash when the results of the Bank’s investigation would be made public.

⁷⁴⁹ *Id.*

⁷⁵⁰ See, Amos Elon, *Switzerland’s Lasting Demon*, N.Y. Times Mag. (Apr. 12, 1998), <https://www.nytimes.com/1998/04/12/magazine/switzerlands-lasting-demon.html>. There were other reports of Swiss citizens holding similar views. See, e.g., Thomas Friedman, *The Neutrality Myth*, N.Y. Times (Feb. 5, 1997), <https://www.nytimes.com/1997/02/05/opinion/the-neutrality-myth.html> (“In [the Swiss] view, they are the victims of a plot to take their quiet little country away, to drag them back into history.”). See also *Swiss banker cleared of anti-Semitic remarks in New Yorker*, AP News (Dec. 5, 1997), <https://apnews.com/article/78ce231effd301514e4b40015d3ce320>; *Swiss bank official attempts to explain anti-Semitic remark*, Jewish Telegraphic Agency (June 5, 1997), <https://www.jta.org/1997/06/05/default/swiss-bank-official-attempts-to-explain-anti-semitic-remark>.

c. Communications with Historians

Forman also helped the Ombudsperson to connect to research institutions, historians, and other experts with relevant knowledge.⁷⁵¹ As described above in Parts I and II, Credit Suisse had trouble finding credible historians willing to work directly for the Bank, and it enlisted the Ombudsperson and Advisor to help. Forman's outreach efforts resulted in the Ombudsperson identifying the Independent Historian, as well as the Argentine expert that the Ombudsperson sought to hire, as described above in Part I.

2. Advice to Credit Suisse and the Independent Ombudsperson

The Independent Advisor was also retained to advise Credit Suisse and the Ombudsperson in various ways, including providing:

- “insights and perspectives of the Jewish community and historical background on relevant topics”;
- feedback to Credit Suisse and the Ombudsperson developed from communications with third-party stakeholders; and
- “suggestions and analysis” to Credit Suisse and the Ombudsperson regarding potential actions to be taken by Credit Suisse, including relating to the scope, methodology, and approach of the Bank's investigation, political considerations, and communications with third-party stakeholders.⁷⁵²

In furtherance of those responsibilities, the Independent Advisor provided advice to Credit Suisse and the Ombudsperson about the scope and methodology of the Bank's review, feedback from stakeholders, political considerations, and historical information and perspectives. The Independent Advisor and Ombudsperson worked closely together and shared information on nearly all matters. In particular, the Independent Advisor directed the Ombudsperson to secondary

⁷⁵¹ For example, the Independent Advisor connected the Ombudsperson to academics such as the preeminent expert on the Ratlines to Argentina; an individual who worked on the Volcker Commission; and Israeli, Swiss, and American historians and other topical experts.

⁷⁵² Engagement Letter between Credit Suisse and Advisor, at Attachment A.

sources he may not have already reviewed and counseled the Ombudsperson on the history of specific Jewish populations, as well as outlining the nature of current forms of antisemitism.

Forman advised Credit Suisse on the same set of issues on which he advised the Ombudsperson. Moreover, he informed the Bank about the particular vulnerabilities of certain Jewish communities and how today's dramatic rise in world-wide antisemitism could shape reactions to the project's findings. Finally, Forman emphasized to Credit Suisse that separate from reputational risk and political reactions to this project, the work they were all engaged in demonstrated the Bank's willingness to squarely face uncomfortable historical truths. As he advised, the type of work that the Bank pledged to do—and for the first year was doing—is the type that enables societies to avoid the tragic choices of the past.

C. Reactions and Historical Perspective Regarding the Bank's Termination

As stated by the Independent Ombudsperson above in Part I, beginning in June 2022, with the replacement of Romeo Cerutti as General Counsel and shortly after the Bank's investigation of the SWC Leads began to uncover significant historical facts about the Bank's past Nazi ties, Credit Suisse began to cut off the Ombudsperson's and Advisor's oversight of the Bank's investigation, walked back its commitments regarding the scope of its investigation, and eventually terminated both Forman and Barofsky. The following section describes feedback from third-party stakeholders and Forman's advice about the potential impact of the Bank's decision to terminate Forman and Barofsky's oversight before their work was complete.

1. Feedback from the Jewish Community

As described by the Independent Ombudsperson above in Part I, Credit Suisse made a series of assurances to SWC that the Bank's investigation would be thorough and transparent, with independent oversight. After the Bank decided to terminate Forman and Barofsky without

completing its investigation under their independent oversight, they conveyed that decision to SWC.⁷⁵³

SWC's reaction was negative. SWC expressed outrage about Credit Suisse's "bait-and-switch" approach to SWC. SWC stated that Credit Suisse had made repeated oral and written assurances to SWC that it would investigate SWC's concerns and conduct "a thorough forensic review" along with "a pledge to work collaboratively" and a "commit[ment] to finding the truth," and that, at "the completion of [Barofsky and Forman's] work, [the Bank would] also share a copy of their final report with [SWC]."⁷⁵⁴ SWC explained:

Based on the representations, the SWC agreed in good faith to collaborate. We disclosed our confidential investigation findings to the Independent Ombudsperson and Independent Advisor. We did so relying on [Credit Suisse's] commitments and pledge that a through and complete investigation of *all* of our concerns regarding the concealment of the Nazi Assets would be completed and published in a report.⁷⁵⁵

But, as SWC further explained, the Bank did not follow through:

After the SWC shared its confidential investigation findings with the Independent Ombudsperson and Independent Advisor, [Credit Suisse] terminated [them]. It did so before their investigation was completed. This was not the comprehensive and complete forensic investigation to which [the Bank] committed.⁷⁵⁶

SWC thus views the Bank's actions terminating the investigation and Barofsky and Forman's oversight of it as the Bank breaking its word and, quoting the federal judge who oversaw the settlement with the Swiss Banks in the 1990s, stated that the Bank's assurances turned out to be a "Big Lie".⁷⁵⁷ SWC continued:

The SWC is concerned that [Credit Suisse's] senior leadership took these actions specifically to prevent [Barofsky and Forman] from uncovering and publishing a

⁷⁵³ December 2, 2022 Call between Ombudsperson, Advisor, and SWC.

⁷⁵⁴ Statement of SWC, January 27, 2023.

⁷⁵⁵ *Id.*

⁷⁵⁶ *Id.*

⁷⁵⁷ *Id.*

report detailing the full scope of hidden Nazi Assets. This is not how a publicly traded financial institution should conduct itself if, in fact, it seeks to be recognized as a good global corporate citizen. It also serves as a wakeup call to the SWC and anyone placing trust in [the Bank's] leadership to follow through on its commitments.⁷⁵⁸

Finally, SWC concludes that Credit Suisse's "conduct here is another example of its refusal to accept full responsibility for its role as a banker to, and financier of, the Nazis during and after the Holocaust," and that by doing so, it is choosing "the opposite" of "transparently confront[ing] its history and lead[ing] the way to a more tolerant world," which "places [the Bank] on the wrong side of history yet again."⁷⁵⁹ Whereas it noted that it had agreed not to proceed with other measures when the bank had agreed to move forward with an open and transparent investigation,⁷⁶⁰ now SWC pledged to "vigorously pursue full accountability" as a result.⁷⁶¹

SWC also expressed concern that the Bank, in justifying its termination of the investigation, would misstate and minimize the evidence and concerns that SWC shared with the Bank in reliance on the Bank's representations. For SWC, the Bank fully reckoning with and accepting its past is of vital importance, and any minimization of its conduct would be a form of denial. In the context of a global rise in antisemitism, which SWC characterized as the worst it has seen in decades, SWC said that it was concerned that the Bank's broken promises and potential minimization of the importance of its investigation could embolden antisemites and contribute to an antisemitic backlash.⁷⁶²

Forman and Barofsky also conveyed Credit Suisse's decision to some of the third-party stakeholders, including Jewish community leaders, with whom they had previously spoken. One

⁷⁵⁸ *Id.*

⁷⁵⁹ Statement of SWC, January 27, 2023.

⁷⁶⁰ December 14, 2022 Call between Ombudsperson, Advisor, and SWC.

⁷⁶¹ *Id.*

⁷⁶² *Id.*

of those leaders expressed to Forman deep concern that the Bank's actions could result in his community becoming the target of antisemitic vitriol. He worried that an adversarial stance by the Bank against a U.S. Jewish organization such as SWC would bring up echoes of the antisemitic climate of the 1990s.

2. The Historical Perspective of the Independent Advisor

The Independent Advisor largely shares the concerns expressed by Jewish community leaders about the damage that may be inflicted on Jewish communities as a result of Credit Suisse's backtracking on its commitments to confront its history, and unlike SWC or those with whom he spoke, his views are informed by knowing both the historically significant findings that the investigation had begun to uncover, as well as the statements made by Credit Suisse that seem to downplay their importance. From this vantage point, there are a number of reasons to be deeply concerned about Credit Suisse's actions:

- Credit Suisse directly or indirectly made representations to a number of parties who originally applauded its decision to confront painful historical truths, including SWC and a leading Vatican researcher who "joined forces" with SWC in its joint interfaith investigation. As SWC has made clear, it believes those assurances were not kept. SWC was explicitly concerned that the Bank would ignore or destroy evidence uncovered as a result of SWC sharing information that it had spent years gathering, and stated that it only disclosed its evidence after the Bank made its now-broken commitment to pursue fully SWC's evidence with Barofsky and Forman's independent oversight.⁷⁶³ Making that commitment, and then walking away from it, risks conveying the impression that both SWC itself as well as the historically important issues and concerns it raised were not of sufficient importance to the Bank's new leadership team to merit following through on their predecessors' commitments.
- As reported by the Independent Ombudsperson above in Parts III and V, and unknown to the Jewish community leaders discussed above, the investigation that Credit Suisse began in 2021 revealed what the Independent Historian retained by the Ombudsperson described as "new and important facts" which contribute to "the historical knowledge" of "the

⁷⁶³ See Part I.

relations of the CS banks with the Nazi regime.” This included findings of dozens of additional Nazi accounts at the Bank, an account controlled by a representative of the notorious DWB, and the Bank’s assistance to a Nazi businessperson in restructuring a corporation to prevent the person’s assets from being seized.⁷⁶⁴ But a common trope of those who traffic in antisemitism is to downplay the importance of the facts related to the Holocaust as not important. Here, as the Ombudsperson reports, Credit Suisse has made statements that contradict the view of the Independent Historian and its own prior General Counsel regarding the importance of these findings and instead seem to minimize their severity, the need to follow up on them, or the need to subject them to oversight. In so doing, these statements also appear to minimize the Bank’s conduct when it conducted business with these Nazis and the importance of finding and exposing the full context of these ties. For instance, as the Ombudsperson reports above in Parts I and III, a senior Bank executive called the findings “not a relevant addition to [the Bank’s prior] work” and stated that the Bank’s investigation resulted in “nothing to show” for the work it had done. That same executive also said that SWC “owed the Bank an apology” for the allegations in the Press Release, and, during a discussion about the discovery of an account linked to a Nazi convicted at Nuremberg, appeared to question the significance of the Bank’s finding the account, which should have been disclosed in the 1990s, when he commented on the fact that the Nazi’s sentence at Nuremberg had been reduced.⁷⁶⁵ Although neither the Independent Advisor or Ombudsperson suspect in any way that Credit Suisse or its executives harbor personal antisemitic sentiments, statements like these from a leading global financial institution risk trivializing the actions of both those who directly participated in the atrocities of the Holocaust, as well as those who enabled or profited off of them. They also, risk providing cover or encouragement to those who do traffic in such antisemitic tropes.

In sum, the Independent Advisor fears that the controversy and ill-will that is sure to characterize the debate over the Bank’s reversal and its characterization of the findings risk fueling the voices of hatred and rising antisemitism that are already frightening Jewish communities around the world.

3. The Advice of the Independent Advisor to Credit Suisse

On December 9, 2022, in fulfillment of his obligation to provide advice to Credit Suisse

⁷⁶⁴ See Parts III, V.

⁷⁶⁵ See Parts I, III.

about its investigation, and informed by his experience and historical perspective, as well as his communications with third party stakeholders, Forman met with Credit Suisse's General Counsel, following the Bank's decision to terminate the Ombudsperson and the Advisor. At that meeting, Forman stated that he felt it was both his ethical and contractual obligation to provide advice on the hazards of the Bank's decision to terminate independent oversight of its investigation and failure to fulfill the investigative assurances given to SWC.⁷⁶⁶ Among other things, Forman informed Diethelm of the following:

- Forman reiterated his belief that the inevitable public perception that the Bank had promised to investigate and then reneged on that promise would have significant negative consequences for a reckoning with historical facts and risk an antisemitic backlash for vulnerable Jewish communities, particularly in Switzerland, and could cause damage to the reputation of Credit Suisse.⁷⁶⁷
- He emphasized the willingness and the capability of SWC to engage with media and government actors in an effort to portray the Bank's decision as indefensible.⁷⁶⁸
- He cited an axiom of American politics that it is the coverup, not the crime, that is most damaging to an institution's reputation. He went on to say that whatever the Bank's intentions were in prematurely ending the investigation, it will likely be viewed as a coverup of alleged past deeds.⁷⁶⁹

After providing this information, the Independent Advisor advised the Bank to reverse its decision to end Credit Suisse's investigation and terminate the Ombudsperson and Advisor, and instead to continue down the Bank's original praiseworthy path of pursuing a thorough, transparent, and independently verified reckoning with its past.⁷⁷⁰

⁷⁶⁶ December 9, 2022 Meeting between Ombudsperson, Credit Suisse, and Advisor.

⁷⁶⁷ *Id.*

⁷⁶⁸ *Id.*

⁷⁶⁹ *Id.*

⁷⁷⁰ *Id.*