

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in Switzerland.⁴⁸⁴ Arthur Andersen concluded that the Bank had successfully recovered and centralized the surviving historical documents from the period 1933 to 1945, although it acknowledged that “due to the sheer volume of documents, it is inevitable that some relevant documents have escaped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.