The Competition Authority
An tÚdarás Iomaíochta

DETERMINATION OF MERGER NOTIFICATION M/13/001 – BlackRock / CS ETF Business

Section 21 of the Competition Act 2002

Proposed acquisition by BlackRock Inc of the Exchange Traded Funds business of Credit Suisse AG

Dated 9/05/2013

Introduction

1. On 8 February 2013, in accordance with Section 18(1)(a) of the Competition Act, 2002 ("the Act"), the Competition Authority ("the Authority") received a notification of a proposed acquisition of sole control by BlackRock Inc, through a number of indirectly held subsidiaries (together referred to as "BlackRock"), of the exchange traded fund business of Credit Suisse Group AG and its subsidiaries ("Credit Suisse").

The Undertakings Involved

Acquirer

2. BlackRock is a U.S. publicly traded company active in the provision of global investment management, risk management and advisory services to institutional and retail clients around the world.

3. BlackRock manages assets on behalf of institutional and individual investors worldwide through a variety of fixed income, cash management, equity and balanced and alternative investment separate accounts and funds. BlackRock is especially involved in the passive asset management business, via various products including Exchange Traded Funds ("ETFs"). In addition, through BlackRock Solutions, BlackRock offers risk management and advisory services.

4. BlackRock provides its asset management services, including passive asset management products, through its network of account sales managers and through a variety of financial intermediaries (banks, brokers, insurance companies or other distributors).

5. iShares is BlackRock's ETF platform. BlackRock acquired iShares as part of its acquisition of BGI in 2009.[1] iShares offers over 600 ETFs globally across equities, fixed income and commodities, traded on 20 exchanges worldwide. According to BlackRock, the iShares customer base consists of the institutional segment of pension plans and fund managers, as well as the retail segment of financial advisors and high net worth individuals.

6. Within the State BlackRock operates through its two Irish domiciled entities (i) BlackRock Asset Management Ireland Ltd, an authorised

[1]Case COMP/M.5580 – *BlackRock/BGI*.

UCITS Management Company which manages UCITS and non-UCITS funds, and (ii) BlackRock Investment Ltd, Dublin branch, which is BlackRock's regulated entity covering the operations of BlackRock's Irish-based Global Renewable Power Investment group, Irish Financial Markets Advisory group and Irish client management and marketing group. BlackRock Asset Management Ireland Ltd manages […] funds with total assets of approximately USD […] billion/EUR […].[2] Overall BlackRock has […] employees in Ireland. BlackRock estimates that […] […] of all assets it manages within the State are held by investors located in […].[3] BlackRock submits that it does not target Irish consumers.

7. For the financial year ending 2012, BlackRock had a worldwide turnover of €6,717 million (gross)[4] and an estimated turnover in the State of €[…].

The Vendor

8. Credit Suisse is a multinational financial services provider based in Switzerland. Credit Suisse is involved globally in the provision of services in the commercial banking, wealth management, investment banking and asset management sectors to companies, institutional clients and high net worth private clients. Credit Suisse also provides such services to retail clients in Switzerland.

The Target

9. The target comprises the ETF business of Credit Suisse ("the CS ETF Business"). The CS ETF Business is currently part of the Private Banking & Wealth Management Division of Credit Suisse.

10. The CS ETF Business was launched in 2001 with a focus on serving Swiss clients marketed through Credit Suisse's private bank. The early fund range comprised Swiss domiciled funds together with Luxembourg domiciled (UCITS) funds. In 2009, CS ETF Business launched an Irish UCITS platform designed to broaden the product offering and client base.[5] CS ETF Business now offers 58 ETF funds as follows:

- 9 Swiss funds which replicate Swiss equity, fixed income and gold indices;
- 3 Luxembourg UCITS funds focusing on European Monetary Union and emerging markets indices;
- 46 ETF products domiciled in the State covering a variety of equity, fixed income and money market indices in developed and emerging markets.

11. The CS ETF Business distributes its products through Credit Suisse's integrated downstream operations, through its own network of account sales managers and through a variety of financial intermediaries

[2] Calculated using the ECB spot exchange rate of 05 February 2013, EUR1=USD1.35.
[3] Source: BlackRock internal presentation "[…] – December 2011. Data provided in the presentation based on Lipper Feri data.
[4] The worldwide figure is based on USD 9,337 million, Calculated using the ECB average annual exchange rate, for the period 01 January to 31 December 2011, EUR1=USD1.39
[5] In this context "platform" refers to the country where the products are domiciled.

(banks, brokers, insurance companies or other distributors). The CS ETF Business submits that it does not target Irish consumers.

12. In the State, the ETFs are managed by Credit Suisse Fund Management Company (Ireland) Limited. Trust and custody services are provided under a contract with BNY Mellon Trust Company (IE) Ltd whereas fund administration and transfer agency services are provided under a contract with BNY Mellon Fund Services (IE) Ltd.

13. For the financial year ending 2012, CS ETF Business had a worldwide turnover of €[…] (gross) and a turnover in the State of €[…] (gross). [6]

The Proposed Transaction

14. The proposed transaction would result in the acquisition of control by BlackRock of the CS ETF Business, currently conducted by the Private Banking & Wealth Management Division of Credit Suisse, following a Sale and Share Purchase Agreement dated 10 January 2013.

15. The proposed transaction involves the transfer of the shares in Credit Suisse Fund Management Company (Ireland) Limited and the transfer of the fund management and investment management business functions currently conducted by certain Credit Suisse subsidiaries.[7]

The Rationale

16. BlackRock submits that proposed transaction would enable it to deepen its relationships with its European clients, essentially in the ETF business, and to offer an expanded range of ETFs. It would also provide an opportunity for BlackRock to increase its local presence and provide stronger on-the-ground support to existing and prospective clients in Switzerland.

17. Credit Suisse submits that the proposed transaction forms part of its strategic divestment plans and would allow Credit Suisse to realise value from the CS ETF Business built up over recent years.[8]

Third Party Submissions

18. No third party submission was received.

Requirement to provide Further Information

19. The Authority required further information from the parties to assist it with its investigation into the likely effects of the proposed transaction. Therefore, on 6 March 2013, the Authority served Requirements to provide Further Information ("RFIs") pursuant to section 20(2) of the Act on BlackRock Inc and Credit Suisse AG.

20. The parties duly complied with the RFIs on 11 April 2013. Section 19(6)(b)(i) of the Act provides that the date of compliance with an RFI becomes the new date from which the one-month Phase 1 period runs,

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[6] Figures are based on […] of CHF […] and CHF […] respectively. Calculated using the ECB average annual exchange rate for the period 01 January to 31 December 2012 of €1=CHF1.23.

[7] See companies listed in Annex 2.3(b) to the Notification.

[8] See page 17 of the 2012 Credit Suisse Annual Report available at: https://www.credit-suisse.com/publications/annualreporting/doc/2012/csg_ar_2012_en.pdf#page=1&zoom=auto,0,813.

thereby resetting the deadline by which the Authority must make its Phase 1 Determination. Thus, the one-month period recommenced on 11 April 2013.

Horizontal Overlap

21. The proposed transaction concerns the asset management sector as both parties are active in the provision of asset management services.

22. The parties submit that the relevant product markets concerned is the provision of asset management services.

23. Asset management concerns the provision of investment advice and often also the implementation of this advice with delegated powers from the client. A variety of investment products and asset classes are available to the investor or the investment manager, such as equity, fixed income, real estate, futures, ETFs and others to achieve an investment strategy. Asset management services include the creation, establishment and marketing of retail pooled funds (mutual funds, unit trusts, investment trusts and open-ended investment companies) and the provision of portfolio management services to pension funds, institutions, international organisations and private investors.

24. The Commission has reviewed similar transactions in the past and has clearly defined a market for asset management.[9] In addition, the Commission has also considered other possible further segmentation of the asset management market including (1) retail versus institutional, a distinction based on investor type; and (2) active versus passive management, a distinction based on investment strategy. However, on each occasion the Commission has left open the question of the further segmentation of the market but the Commission has pointed out that asset management excludes the provision of portfolio management services to individuals (so-called private banking).

25. Active asset management involves the investment manager making specific investments with the goal of outperforming a benchmark, while passive asset management (which includes products such as ETFs) consists of strategies that merely seek to replicate the performance of an index.

26. The parties submit that the relevant product market should not be defined more narrowly than asset management as (1) there is a high degree of demand and supply-side substitution between different types of asset management products; and (2) several investment products combine elements of "active" and "passive" strategies. In addition, the parties submit that irrespective of any proposed segmentation the proposed transaction would not substantially lessen competition in the State.

27. The parties also submit that the relevant market is at least EEA-wide as (1) asset management services are increasingly and routinely provided on a global basis with providers typically running operations from a few centralized locations; (2) the majority of customers of the parties services are primarily institutional investors, who routinely source their requirements on a global basis and who are located across

[9] See Case COMP/M.5580 – *BlackRock/BGI*; Case COMP/M. 5341 Allianz/Cominvest, December 18, 2008; and Case COMP/M.5728 – Credit Agricole/Societe Generale Asset Management.

the world and broadly across the EEA and Switzerland; and (3) ETF products are available globally and any investor can purchase an ETF product traded on a regulated stock exchange.

28. In past decisions the Commission has considered the geographic scope of the market for asset management on the basis of either a national or international/EEA scope.[10] However, on each occasion, the Commission has left open the precise geographic scope of the market.

29. The Authority considers that it is not necessary to define the exact scope of either the product or geographic market in this case since regardless of the market defined, the proposed acquisition would not substantially lessen competition in the State.

Competitive Assessment

30. The market for asset management services is measured by having regard to the total value of assets under management ("AuM") rather than on revenue earned by providers of asset management services. On this basis, the AuM with respect to the provision of ETF products in the EEA & Switzerland market is estimated to be worth approximately USD $252,274.7 million as of December 2012.[11]

31. Market shares for the provision of each of asset management, passive asset management and ETFs in the EEA & Switzerland as of November 2012 are set out in the Tables 1 to 3 below.[12]

Table 1 – Market Shares in Asset Management

Company	***AuM in USD$ millions***	***% Share***
BlackRock	[…]	[5 – 10]
Amundi	[…]	[0 - 5]
JP Morgan	[…]	[0 - 5]
Deutsche DWS	[…]	[0 - 5]
BNP Paribas	[…]	[0 - 5]
CS ETF Business	[…]	[0 - 5]
Other	[…]	[75 – 80]
Total	[…]	100.0

Source: the parties

10 See Cases COMP/M.5580 BlackRock/BGI; COMP/M. 3894; Unicredito/HVB; COMP/M.1453, AXA/GRE; and IV/M.1043, BAT/Zurich.

11 Source: Lipper's European Fund Market Review 2013 Edition at page 32 available at: http://share.thomsonreuters.com/PR/Lipper/European_Fund_Market_Review_2013.pdf.

12 There is no reason to believe that a smaller geographic market would show different results.

Table 2 – Market Shares in Passive Asset Management

Company	***AuM in USD$ millions***	***%Share***
BlackRock	[...]	[25 – 30]
Societe Generale	[...]	[5 – 10]
UBS	[...]	[5 – 10]
Legal & General	[...]	[5 – 10]
Vanguard	[...]	[0 - 5]
SSgA	[...]	[0 - 5]
CS ETF Business	[...]	[0 - 5]
Other	[...]	[40 – 45]
Total	[...]	100.0

Source: the parties

Table 3 – Market Shares in ETFs

Company	***AuM in USD$ Millions***	***% Share***
BlackRock	[...]	[35 – 40]
Societe Generale	[...]	[10 - 15]
Deutsche DWS	[...]	[10 - 15]
CS ETF Business	[...]	[0 - 5]
Zuercher Kantonalbank	[...]	[0 - 5]
ETF Securities Limited	[...]	[5 – 10]
UBS	[...]	[0 - 5]
Other	[...]	[15 – 20]
Total	[...]	100.0

Source: the parties

32. Thus, at an EEA and Switzerland level, the notifying parties' combined share post transction would be approximately as follows:

- all asset management products -- less than [5 – 10] % with the CS ETF Business adding an increment of [0 - 5]%;
- all passive asset management products – [25 - 30]% with the CS ETF Business adding and an increment of [0 - 5]%; and
- all ETF products – [40 – 45]% with the CS ETF Business adding an increment of [0 – 5] %.

33. Table 1 and Table 2 above illustrate that the competitive conditions in the EEA and Switzerland are such that the parties compete in the provision of asset management services and passive asset management services with strong European and US players including State Street (SSgA), Societe Generale, Deutsche DWS, UBS, BNP Paribas and Vanguard as well as smaller providers – and that the CS ETF Business is comparatively modest in size.

34. The proposed transaction involves the acquisition of the CS ETF Business which is solely involved in the provision of ETF products. Accordingly the Authority will focus the competitive effects analysis of the proposed transaction on the provision of ETFs.[13]

[13] None of the third parties with whom the Authority spoke raised a concern based upon any distinction between physical and synthetic ETFs. For an explanation of this distinction, please see: http://www.morningstarfunds.ie/ie/news/article.aspx?articleid=104563&categoryid=13

35. An ETF, in its simplest form, is a collection or basket of securities that tracks an index, such as the Irish Stock Exchange or London Stock Exchange. The object of an ETF is to replicate the return on the underlying index. ETFs are traded on an exchange itself. ETFs give investors the chance to buy whole indices as easily as buying a share, so such products combine the ready-made diversification of unit trusts with the simplicity of shares. In addition, ETFs have some of the lowest annual charges of all collective investment schemes. According to Mercer the industry is growing at a remarkable pace -- from 1999 to date the number of ETFs worldwide increased from 33 to over 3,000 with the assets invested growing from USD $39.6 billion to over USD $1.3 trillion.[14] There are now several types of ETF products available including equities, commodities, and bonds, tracking indices in the State, the UK and around the world.

36. Market concentration refers to the degree to which production in a particular market or industry is concentrated in the hands of a few large firms. The most commonly used measure of concentration is the Herfindahl-Hirschman index (HHI), which is defined as the sum of the squares of the market shares of all firms participating in the market. Figures calculated based on Table 3 above for providers of ETFs show that the HHI post-proposed transaction would be over 2400 (highly concentrated), with the change in the HHI of 359.04.

37. The HHI results would put the proposed transaction in Zone C as defined by the Competition Authority's *Merger Guidelines*.[15] The *Merger Guidelines* states that "Zone C mergers occur in already highly concentrated markets and more usually be those that raise competitive concerns."[16] However, the Authority considers more than HHI levels.

38. The three largest providers of ETFs in Europe are BlackRock through iShares, Deutsche Bank through DB x-trackers and Societe Generale Group through Lyxor which, according to Table 3 above, hold [60 – 65] % of the ETF sector in the EEA and Switzerland. It is clear from the above that iShares is the leading firm in the industry. iShares continues to grow and has been attracting the bulk of net inflows. iShares has significant advantages, including economies of scale and brand recognition offering potential investors an established firm with a track record with which to invest.

39. Table 3 also shows, however, that after the acquisition BlackRock would still face substantial competitors, including Deutsche Bank and Societe Generale. Moreover, […], three are not included in Table 3: State Street (through SPDR), Vanguard, and Source.

40. Vanguard and State Street are particularly worthy of note. BlackRock, Vanguard and State Street make up the top three global providers of ETFs, all with emphasis on physical ETFs. Both Vanguard and State Street enjoy economies of scale and expertise in the provision of ETFs. Vanguard launched its first European ETF products in May 2012 and in January 2013 has increased the number of ETF products it offers. This

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[14] Mercer publication of 12 March 2013: "Understanding Exchange Traded Funds and evaluating their uses – a summary", available at: http://www.mercer.ie/articles/understanding-exchange-traded-funds.

[15] Full details of the HHI are explained in the Competition Authority, 2004, *Notice in Respect of Guidelines for Merger Analysis*, Decision No. N/02/004. This document is available on www.tca.ie.

[16] Ibid 22, paragraph 3.10, page 11.

is a particularly important entrance by a new provider with new product offerings.

41. In contrast, BlackRock does not appear to […]. In particular, […].[17]

42. More generally, the ETF sector has grown and new firms have entered and expanded. Although scale and reputation can be important to success, especially for certain kinds of ETFs, skilled and talented managers with regulatory approval and access to capital can find ways to begin competing. For example, ETF Securities Limited launched in Europe in 2005 and by November 2012 was ranked as the 4th largest provider of ETFs in Europe.

43. Since 2008, in the EEA and Switzerland, 400 new entrants began providing asset management services and 60 new entrants began providing passive asset management services. Between 2008 and 2012, twenty new entrants began providing ETF products, compared with seven exits during that period.[18] The current year has seen the announcement by First Trust that it intends to enter the market this year and the recent launch by Finex Capital Management of its first ETF on the London Stock Exchange.[19]

44. Customers considering investment vehicles and strategy consider, among other things, risk, yield/growth potential, liquidity and cost. Individual investors will give more weight to some factors than to others.

45. One key concern is the level of management fees charged. Aside from the trade price of the investment product, additional fees are charged based on the Total Expenses Ration ("TER") of a product.[20] One distinction between active and passive products is that the passive products on the whole tend to have lower fee levels than active products. For both active and passive products, including ETFs, the pricing is set out in the prospectus. Different fees may be applied to different investor types (e.g. retail or institutional) or on different share classes. ETFs typically do not have multiple share classes and thus all investors in an ETF should be subject to the same level of fees. The average fee charged on an ETF is approximately 0.5%.[21] BlackRock states that with respect to the fees charged for its ETFs there is no distinction in the TER charged for institutional or retail customers or based on the size of the investment made.

46. Switching in the industry is relatively easy, since there are no significant barriers to switching between providers of asset management services or between products. Several types of

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[17] Source: internal Presentations provided by BlackRock in response to Authority queries including: '[…] – 25 March 2013'; '[…] – September 2012'; and '[…] – July 2012' and "[…]" (undated).
[18] Source: information provided by the parties in response to Authority queries.
[19] See the following press articles: http://www.ft.com/intl/cms/s/0/f1f63e00-75c5-11e2-b702-00144feabdc0.html#axzz2S8RMBbnd and http://www.morningstar.co.uk/uk/news/106219/monopoly-concerns-hit-etf-market.aspx and http://www.ft.com/intl/cms/s/0/5d6df622-7b6c-11e2-8eed-00144feabdc0.html#axzz2S8RMBbnd
[20] The TER is a measure of the total costs associated with managing and operating an investment fund, such as a mutual fund. These costs consist primarily of management fees and additional expenses such as trading fees, legal fees, auditor fees and other operational expenses. The total cost of the fund is divided by the fund's total assets to arrive at a percentage amount, which represents the TER. Definition of TER provided by http://www.investopedia.com/terms/t/ter.asp
[21] Source: Mercer's Global Asset Manager Fee Survey at page 131 available at: http://www.mercer.com/articles/1505185

investment products are available, each of which has specific features and may have the same or similar investment return features and, depending on the specific aims of the investors, may be equally suitable. For ETFs, a key feature is their liquidity, investors can trade units on an intra-day basis on secondary markets (e.g. stock exchange). An investor need only place a buy or sell order with a broker.

47. An ETF is one of a number of investment vehicles that an investor can choose based on the overall aims sought to be achieved from the investment.[22] Many firms that offer ETFs offer other investment vehicles, and many investors in ETFs also invest in other products.

48. In terms of customer types, BlackRock estimates that its business is broken down among four main customer types, namely institutional investors, sovereign wealth funds, high net worth individuals and retail clients.[23] The parties submit that the vast majority of their respective customers are primarily institutional investors or intermediaries.

49. Institutional customers are generally well-informed, sophisticated buyers with the ability to benchmark the performance of providers and the services offered by each. An institutional investor with skilled investment staff can use alternative investment products, such as futures, to fulfil some of the special strategic investment needs that can be achieved by using ETFs. In fact, for short term investment needs futures can have lower costs than an ETF.[24] To some extent a retail investor working with a broker or Independent Financial Advisor ("IFA") can enjoy some of these same benefits. Thus, a substantial number of investors seeking attributes of an ETF that alternative passive investments lack may nonetheless have alternatives to ETFs, and providers may not be able to discriminate in favour of these investors.

50. With respect to the State, retail investors in ETFs are generally advised by either a broker or an IFA. In this respect brokers and IFA's could be considered analogous to sophisticated buyers with expertise who can benchmark the performance of ETF providers and compare the service offered with the aim of advising their clients accordingly.

51. During the course of its investigation, the Authority contacted a number of third parties active in the asset management industry within the State. None expressed concerns with respect to the proposed transaction. Nor did the Authority receive any third party submissions.

52. In light of the above, including the substantial competition that will remain post acquisition, CS ETF Business's relatively modest role, new entry and expansion, ease of switching, and the presence of alternatives available to Irish investors, the Authority is of the view that the proposed transaction would not substantially lessen

[22] For a comparison of the different advantages of some of the investment options available, see http://uk.mercer.com/articles/understanding-exchange-traded-funds

[23] Retail client in this context refers to intermediary clients, such as authorised financial advisors or stockbroker clients, rather than individual end user investors, as the parties have limited information as to the end user investor client.

[24] Mercer publication of 12 March 2013: "Understanding Exchange Traded Funds and evaluating their uses – a summary", available at http://www.mercer.ie/articles/understanding-exchange-traded-funds

competition in the State even if considered in a narrowly defined market.

DETERMINATION

The Competition Authority, in accordance with Section 21(2)(a) of the Competition Act, 2002, has determined that, in its opinion, the result of the proposed acquisition by BlackRock Inc of the exchange traded fund business of Credit Suisse AG and its subsidiaries will not be to substantially lessen competition in any market for goods or services in the State and, accordingly, that the acquisition may be put into effect.

For the Competition Authority

Stephen Calkins

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