

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2013037230001**

TO: Department of Enforcement
Financial Industry Regulatory Authority ("FINRA")

RE: Goldman, Sachs & Co., Respondent
Member Firm
CRD No. 361

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Goldman, Sachs & Co. ("Goldman Sachs" or the "Firm") submits this Letter of Acceptance, Waiver and Consent ("AWC") for the purpose of proposing a settlement of the alleged rule violations described below. This AWC is submitted on the condition that, if accepted, FINRA will not bring any future actions against Goldman Sachs alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. Goldman Sachs hereby accepts and consents, without admitting or denying the findings, and solely for the purposes of this proceeding and any other proceeding brought by or on behalf of FINRA, or to which FINRA is a party, prior to a hearing and without an adjudication of any issue of law or fact, to the entry of the following findings by FINRA:

BACKGROUND

Goldman Sachs is a full-service brokerage firm headquartered in New York, New York. Among other things, it provides equity research, sales and trading services, and underwriting services. Goldman Sachs has been a FINRA member since 1936 and is subject to FINRA's jurisdiction pursuant to Article V, Section 4 of FINRA's by-laws.

RELEVANT DISCIPLINARY HISTORY

In January 2006, the New York Stock Exchange ("NYSE") censured Goldman Sachs and fined it \$150,000 for violating NYSE Rule 410A by failing to submit accurate trading information through the submission of electronic blue sheets; violating NYSE Rule 401 by submitting inaccurate trading information on electronic blue sheets; and violating NYSE Rule 342 by failing to establish and maintain appropriate systems and procedures for supervision and control for complying with electronic blue sheet reporting requirements and failing to establish a separate system of follow-up and review to reasonably ensure compliance with NYSE Rules relating to preparation and submission of electronic blue sheets. Goldman Sachs also consented to a

requirement that it conduct a validation of all required blue sheet data elements and an undertaking to inform the NYSE in writing that the validation had been completed.

In May 2010, FINRA censured Goldman Sachs and fined it \$22,500 for violating FINRA Rules 8211 and 8213 by failing to report accurate trading information through the submission of electronic blue sheets in response to requests for such information from FINRA and violating FINRA Rule 2010 and NASD Rule 3010 by failing to have in place a supervisory system providing supervision reasonably designed to achieve compliance with respect to certain aspects of the applicable securities laws and regulations and FINRA rules concerning the validation of data on blue sheet submissions. In addition to the censure and fine, Goldman Sachs was required to certify to FINRA that it had “revised its written supervisory procedures to address the deficiencies” described in the firm’s Letter of Acceptance, Waiver and Consent.

OVERVIEW

Between 2004 and 2012, Goldman Sachs submitted to FINRA, the SEC, and other regulators blue sheets that inaccurately reported certain short-sale transactions as long-sale transactions. Between November 2012 and January 2013, Goldman Sachs failed to include certain transactions in its blue sheets submissions to FINRA. In addition, between 2004 and 2013, Goldman Sachs did not have in place an adequate audit system providing for accountability regarding the inputting of records required to be maintained and preserved. As a result of the foregoing conduct, Goldman Sachs violated Section 17(a) of the Exchange Act and Rules 17a-4(j), 17a-4(f)(3)(v), and 17a-25, thereunder; NASD Rules 8211, 8213, and 2110; and FINRA Rules 8211, 8213, and 2010.¹

FACTS AND VIOLATIVE CONDUCT

Federal securities laws and FINRA rules require that member firms submit trade data in an automated format when requested by the SEC or FINRA. These trade data are commonly known as “blue sheets.”

The SEC, FINRA, and other regulators request blue sheets to assist them in investigations focused on equity trading, including suspicious and insider trading. Blue sheets provide regulators with critical information about suspicious transactions, including the name of the account owner, the nature of the transaction (whether it was a buy, sale, or short sale), and the price at which the transaction occurred. This information is essential to regulators’ ability to discharge their enforcement and regulatory mandates.

The failure of a member firm to provide complete and accurate blue sheet information in response to a regulatory request can impact a regulator’s ability to discharge its obligations, undermine the integrity of its investigations and examinations, and ultimately interfere with its ability to protect investors. It is therefore an essential and fundamental obligation of each member firm to provide complete, accurate, and timely blue sheet submissions.

¹ NASD Rules 8211 and 8213 were replaced by FINRA Rules 8211 and 8213, effective December 15, 2008; NASD Rule 2110 was replaced by FINRA Rule 2010, effective December 15, 2008. Conduct occurring before December 15, 2008, violates the applicable NASD rule.

Submission of Inaccurate Blue Sheets. Section 17(a) of the Exchange Act and Rules 17a-4(j) and 17a-25, thereunder, require broker-dealers to submit “legible, true, complete, and current” blue sheet data to the SEC upon request. FINRA Rules 8211 and 8213 (formerly NASD Rules 8211 and 8213) require that member firms submit trade data, as prescribed in FINRA Rule 8211, to FINRA upon request.

Goldman Sachs Inaccurately Reported Certain Short-Sale Transactions

Between 2004 and 2012, Goldman Sachs submitted to FINRA and the SEC blue sheets that inaccurately reported certain short-sale transactions as long-sale transactions with respect to the firm side of customer facilitation trades.

In or around 2004, certain trading desks at Goldman Sachs began using a particular middle-office system. On occasion, when Firm trading desks facilitated customer orders, they used a “control account” to process “street-side” activity (executions against the market or Firm trading accounts) and customer-side activity (allocations to customer accounts). In certain situations, transactions in the same Firm account in the same security with certain common characteristics (such as execution venue, counterparty, and, in the case of program trades, program name) were aggregated for trade booking purposes. These separate transactions would then be “batched” by the middle office system and transmitted in a bulk file to the Firm’s blue sheet reporting platform.

Between 2004 and 2012, Goldman Sachs reported short sales as long sales on its blue sheets submissions when (i) the trading desk used this particular middle office system; (ii) the desk’s transactions were processed through a control account; and (iii) details about separate transactions were transmitted to the blue sheet reporting platform via the end-of-day batch process. As a result, Goldman Sachs submitted to the SEC and FINRA at least 692 inaccurate blue sheets between November 2010 and June 2012, and an undetermined number of inaccurate blue sheets between 2004 and October 2010.

Goldman Sachs Failed to Report Certain Transactions

Between November 2012 and January 2013, Goldman Sachs failed to include certain street-side transactions executed for customers in its blue sheets submissions to FINRA.

In November 2012, Goldman Sachs began using a new field and associated reporting logic in its blue sheets reporting infrastructure. The field was titled “Corr_Clearing_Flag,” and was added to facilitate proper reporting of transactions executed for broker-dealer clients that use National Securities Clearing Corporation’s Correspondent Clearing Service. The flag and associated reporting logic are designed to identify and exclude certain bookkeeping entries that are generated in the course of processing correspondent clearing transactions that are not reportable for blue sheets purposes.

From November 2012 to January 2013, Goldman Sachs’s blue sheets reporting infrastructure erroneously assumed that the field could have only two values (“Y” or “N”). In fact, the field

was voluntary and could be left blank. Goldman Sachs's blue sheets reporting infrastructure erroneously interpreted a blank field as an indication that the transaction could be a bookkeeping entry, and some of those transactions were therefore not reported on Goldman Sachs's blue sheets submissions.

As a result of the problem, between November 2012 and January 2013, Goldman Sachs submitted at least 53 inaccurate blue sheets to FINRA.

Goldman Sachs's failure to submit accurate blue sheets had a negative impact on regulatory investigations into possible violations of securities laws.

As a result of the foregoing, Goldman Sachs violated Section 17(a) of the Exchange Act; Rules 17a-4(j) and 17a-25, thereunder; NASD Rules 8211, 8213, and 2110 (for inaccurate blue sheets submitted before December 15, 2008); and FINRA Rules 8211, 8213, and 2010.

Inadequate Audit System. Section 17(a) of the Exchange Act and Rule 17a-4(f)(3)(v), thereunder, require broker-dealers to have "in place an audit system providing for accountability regarding inputting of records required to be maintained and preserved pursuant to Rules 17a-3 and 17a-4 to electronic storage media and inputting of any changes made to every original and duplicate record maintained and preserved thereby."

Between 2004 and 2013, Goldman Sachs did not have in place an adequate audit system providing for accountability of its blue sheet submissions. As a result, Goldman Sachs violated Section 17(a) of the Exchange Act and Rule 17a-4(f)(3)(v), thereunder, NASD Rule 2110, and FINRA Rule 2010.

OTHER FACTORS

In determining the appropriate sanction in this matter, FINRA's Enforcement Department considered Goldman Sachs's self-report following its discovery of the violations described above. Goldman Sachs detected the violations, initiated internal reviews upon discovery of the violations, identified the cause of the violations, and engaged in remediation. Accordingly, Goldman Sachs has received a reduced fine.

B. Goldman Sachs also consents to the imposition of the following sanctions:

- (1) a censure; and
- (2) a fine of \$1,000,000.

Goldman Sachs further agrees that it has conducted a review of its policies, systems, and procedures (written or otherwise) relating to the deficiencies addressed herein. Within 90 days of the issuance of a Notice of Acceptance of this AWC, an officer of Goldman Sachs shall certify in writing to James E. Day, Vice President and Chief Counsel, FINRA Department of Enforcement, that (i) Goldman Sachs has conducted the comprehensive review described above, and (ii) as of the date of the certification, Goldman Sachs has in place policies, systems, and

procedures to address and correct the violations described in this AWC and also reasonably designed to ensure the firm provides accurate and timely blue sheet submissions as requested by regulators. The Department of Enforcement may, upon a showing of good cause and in its sole discretion, extend the time for compliance with this provision.

Goldman Sachs agrees to pay the monetary sanction(s) upon notice that this AWC has been accepted and that such payment(s) are due and payable. Goldman Sachs has submitted an Election of Payment form showing the method by which it proposes to pay the fine imposed.

Goldman Sachs specifically and voluntarily waives any right to claim that it is unable to pay, now or at any time hereafter, the monetary sanction imposed in this matter.

The sanctions imposed herein shall be effective on a date set by FINRA staff.

II.

WAIVER OF PROCEDURAL RIGHTS

Goldman Sachs specifically and voluntarily waives the following rights granted under FINRA's Code of Procedure:

- (A) to have a Complaint issued specifying the allegations against it;
- (B) to be notified of the Complaint and have the opportunity to answer the allegations in writing;
- (C) to defend against the allegations in a disciplinary hearing before a hearing panel, to have a written record of the hearing made and to have a written decision issued; and
- (D) to appeal any such decision to the National Adjudicatory Council ("NAC") and then to the U.S. Securities and Exchange Commission and a U.S. Court of Appeals.

Further, Goldman Sachs specifically and voluntarily waives any right to claim bias or prejudice of the General Counsel, the NAC, or any member of the NAC, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including acceptance or rejection of this AWC.

Goldman Sachs further specifically and voluntarily waives any right to claim that a person violated the *ex parte* prohibitions of FINRA Rule 9143 or the separation of functions prohibitions of FINRA Rule 9144, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including its acceptance or rejection.

III.

OTHER MATTERS

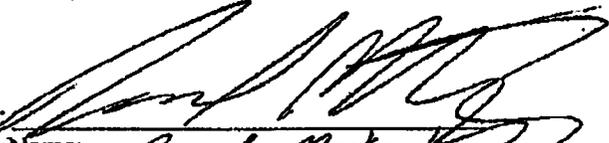
Goldman Sachs understands that:

- (A) submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by the NAC, a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs ("ODA"), pursuant to FINRA Rule 9216;
- (B) if this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against it; and
- (C) if accepted:
 - (1) this AWC will become part of the Firm's permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against it;
 - (2) this AWC will be made available through FINRA's public disclosure program in response to public inquiries about the Firm's disciplinary record;
 - (3) FINRA may make a public announcement concerning this agreement and the subject matter thereof in accordance with FINRA Rule 8313; and
 - (4) Goldman Sachs may not take any action or make or permit to be made any public statement, including in regulatory filings or otherwise, denying, directly or indirectly, any finding in this AWC or create the impression that the AWC is without factual basis. Goldman Sachs may not take any position in any proceeding brought by or on behalf of FINRA, or to which FINRA is a party, that is inconsistent with any part of this AWC. Nothing in this provision affects Goldman Sachs's (i) testimonial obligations; or (ii) right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.
- (D) Goldman Sachs may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. Goldman Sachs understands that it may not deny the charges or make any statement that is inconsistent with the AWC in this Statement. This Statement does not constitute factual or legal findings by FINRA, nor does it reflect the views of FINRA or its staff.

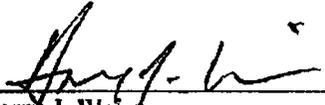
The undersigned, on behalf of the Goldman Sachs, certifies that a person duly authorized to act on its behalf has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; that Goldman Sachs has agreed to its provisions voluntarily; and that no offer, threat, inducement, or promise of any kind, other than the terms set forth herein and the prospect of avoiding the issuance of a Complaint, has been made to induce Goldman Sachs to submit it.

05/29/2014
(MM/DD/YY)

Respondent
Goldman, Sachs & Co.

By: 
Name: David Markov
Title: Managing Director

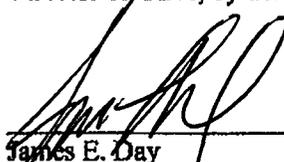
Reviewed by:


Harry J. Weiss
Counsel for Respondent
WilmerHale
1875 Pennsylvania Avenue NW
Washington, DC 20006
(202) 663-6993

Accepted by FINRA:

6/2/14
Date

Signed on behalf of the
Director of ODA, by delegated authority



James E. Day
Vice President and Chief Counsel
FINRA Department of Enforcement
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Rockville, MD 20850-3241
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