

**NYSE AMERICAN LLC
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2019063499511**

TO: NYSE AMERICAN LLC

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

Until April 2023 (the “Relevant Period”), Goldman Sachs & Co. LLC violated NYSE American Rules 320(e) (Offices—Approval, Supervision and Control) and 3110(a) and (b) (Supervision) (for conduct on or after December 2014) by failing to include warrants, rights, units, and certain over the counter (OTC) equity securities in nine of its automated surveillance reports designed to identify potentially manipulative proprietary and customer trading activity. As a result, Goldman’s supervisory system, including its written supervisory procedures (“WSPs”), was not reasonably designed to identify potentially manipulative trading activity. Consent to a censure and \$37,000 (resolved simultaneously with similar matters for a total fine of \$512,500).¹

* * *

Pursuant to Rule 9216 of the NYSE American LLC (“NYSE American” or the “Exchange”)² Code of Procedure, Goldman Sachs & Co. LLC (“Goldman” 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, NYSE American will not bring any future actions against the Firm alleging violations based on the same factual findings described herein.

I. ACCEPTANCE AND CONSENT

- A. Goldman 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 NYSE American, or to which NYSE American 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 NYSE American:

BACKGROUND AND JURISDICTION

1. Goldman became a member of NYSE American in 1988 and its registration remains in effect. The Firm is a full-service broker-dealer engaged in market making, execution services, and underwriting. The Firm is headquartered in New York, New

¹ Those matters were brought by Cboe BYX Exchange, Inc.; Cboe BZX Exchange, Inc.; Cboe EDGA Exchange, Inc.; Cboe EDGX Exchange, Inc.; FINRA; Investors Exchange LLC; The Nasdaq Stock Market LLC; Nasdaq BX, Inc.; Nasdaq Phlx LLC; The New York Stock Exchange; NYSE Arca, Inc.; NYSE Chicago, Inc.; and NYSE National, Inc.

² For a portion of the time of the violation, the Exchange was known as “NYSE MKT LLC,” and the NYSE American rule referenced herein was denominated a NYSE MKT rule.

York and has approximately 7,700 registered persons and more than 75 branch offices. The Firm does not have any relevant disciplinary history.

VIOLATIONS

2. NYSE American Rule 3110(a) and (b) requires, among other things, that every member establish and maintain a system to supervise, including WSPs, reasonably designed to achieve compliance with applicable securities laws and Exchange rules.³
3. NYSE American Rule 320(e) requires, among other things, that every member who has employees establish, maintain, and enforce a system of compliance and supervisory controls, including WSPs, reasonably designed to achieve compliance with applicable securities laws and Exchange rules, that are appropriate to their business size, structure, customer accounts, transactions and business activities.
4. From February 2009 until April 2023, Goldman failed to include warrants, rights, units, and certain OTC equity securities in nine surveillance reports designed to identify potentially manipulative proprietary and customer trading. These securities were excluded for extended periods ranging from approximately two years to more than 12 years. For example, a Goldman surveillance report designed to identify potential wash trades excluded warrants from October 2010 until March 2021 and excluded rights and units from October 2010 until April 2022. Additionally, Goldman's surveillance reports designed to identify potential marking the open and marking the close excluded warrants, rights, units, and certain OTC equity securities from the inception of the reports in February 2009 until April 2018.
5. As a result of the gaps in its surveillance reports and WSPs, Goldman could not perform reasonable supervisory reviews of trading activity in warrants, rights, units, and certain OTC equity securities for potential manipulation. Goldman added the missing securities to the surveillance reports either in response to FINRA's investigation or through the Firm's adoption of new surveillance reports. Goldman completed remediation for all surveillance reports by April 2023.
6. Goldman's supervisory system, and WSPs, also did not require a review of its automated surveillance reports to ensure they included all relevant securities traded as part of the Firm's business. As a result, the Firm failed to detect that nine surveillance reports for potentially manipulative trading excluded warrants, rights, units, and certain OTC equity securities. In February 2021, Goldman implemented reviews to identify if any security has been inadvertently excluded from new or modified surveillance reports.
7. Based on the foregoing, Goldman violated NYSE American Rules 320(e) and 3110(a) and (b).

³ NYSE American Rule 3110 became effective on December 1, 2014.

SANCTIONS

B. The Firm also consents to the imposition of the following sanctions:

1. Censure and fine in the amount of \$37,000 (resolved simultaneously with similar matters for a total fine of \$512,500).⁴

The Firm agrees to pay the monetary sanction upon notice that this AWC has been accepted and that such payment is due and payable. The Firm has submitted a Method of Payment Confirmation form showing the method by which it will pay the fine imposed.

The Firm 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 NYSE Regulation staff.

II. WAIVER OF PROCEDURAL RIGHTS

The Firm specifically and voluntarily waives the following rights granted under the NYSE American Code of Procedure:

- A. To have a Formal Complaint issued specifying the allegations against the Firm;
- B. To be notified of the Formal 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 Exchange's Board of Directors and then to the U.S. Securities and Exchange Commission and a U.S. Court of Appeals.

Further, the Firm specifically and voluntarily waives any right to claim bias or prejudice of the Chief Regulatory Officer of NYSE American; the Exchange's Board of Directors, Disciplinary Action Committee ("DAC"), and Committee for Review ("CFR"); any Director, DAC member, or CFR member; Counsel to the Exchange Board of Directors or CFR; any other NYSE American employee; or any Regulatory Staff as defined in Rule 9120 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.

⁴ Those matters were brought by Cboe BYX Exchange, Inc.; Cboe BZX Exchange, Inc.; Cboe EDGA Exchange, Inc.; Cboe EDGX Exchange, Inc.; FINRA; Investors Exchange LLC; The Nasdaq Stock Market LLC; Nasdaq BX, Inc.; Nasdaq Phlx LLC; The New York Stock Exchange LLC; NYSE Arca, Inc.; NYSE Chicago, Inc.; and NYSE National, Inc.

The Firm further specifically and voluntarily waives any right to claim that a person violated the ex parte communication prohibitions of Rule 9143 or the separation of functions prohibitions of 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

The Firm understands that:

- A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed by NYSE Regulation, and accepted by the Chief Regulatory Officer of NYSE American pursuant to NYSE American Rule 9216;
- B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against the Firm; and
- C. If accepted:
 - 1. The AWC shall be sent to each Director and each member of the Committee for Review via courier, express delivery or electronic means, and shall be deemed final and shall constitute the complaint, answer, and decision in the matter, 10 days after it is sent to each Director and each member of the Committee for Review, unless review by the Exchange Board of Directors is requested pursuant to NYSE American Rule 9310(a)(1)(B);
 - 2. This AWC will become part of the Firm's permanent disciplinary record and may be considered in any future actions brought by the Exchange, or any other regulator against the Firm;
 - 3. NYSE American shall publish a copy of the AWC on its website in accordance with NYSE American Rule 8313;
 - 4. NYSE American may make a public announcement concerning this agreement and the subject matter thereof in accordance with NYSE American Rule 8313; and
 - 5. The Firm 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. The Firm may not take any position in any proceeding brought by or on behalf of the Exchange, or to which the Exchange is a party, that is inconsistent with any part of this AWC. Nothing in this provision affects the Firm's (i) testimonial obligations; or (ii) right to take legal or factual positions in litigation or other legal proceedings in which the Exchange is not a party.

- D. A signed copy of this AWC and the accompanying Method of Payment Confirmation form delivered by email, facsimile or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy.
- E. The Firm may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. The Firm understands that it may not deny the charges or make any statement that is inconsistent with the AWC in this Statement. Any such statement does not constitute factual or legal findings by the Exchange, nor does it reflect the views of NYSE Regulation or its staff.

The Firm certifies that, in connection with each of the Exchange's requests for information in connection with this matter, the Firm made a diligent inquiry of all persons and systems that reasonably had possession of responsive documents and that all responsive documents have been produced. In agreeing to the AWC, the Exchange has relied upon, among other things, the completeness of the document productions.

The undersigned, on behalf of the Firm, 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 it has agreed to the AWC's 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 the firm to submit it.

January 24, 2024

Date

Goldman Sachs & Co. LLC,
Respondent

By: Colleen M. O'Brien
Colleen M. O'Brien
Managing Director & Senior Counsel

Accepted by FINRA

January 24, 2024

Date

Gerald O'Hara
Gerald O'Hara
Senior Counsel
FINRA, Department of Enforcement

Signed on behalf of NYSE American LLC,
by delegated authority from its Chief
Regulatory Officer