

**NYSE NATIONAL, INC.  
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT  
NO. 2019063499514**

TO: NYSE NATIONAL, INC.

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

**Until April 2023 (the “Relevant Period”), Goldman Sachs & Co. LLC violated NYSE National Rules 11.5.1 (Supervision) and 11.3.2 (Violations Prohibited) 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 \$8,500 (resolved simultaneously with similar matters for a total fine of \$512,500).<sup>1</sup>**

\* \* \*

Pursuant to Rule 10.9216 of the NYSE National, Inc. (“NYSE National” or the “Exchange”) 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 National 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 National, or to which NYSE National 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 National:

**BACKGROUND AND JURISDICTION**

1. Goldman became an ETP Holder of NYSE National in May 2018 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 York and has approximately 7,700 registered persons and more than 75 branch offices. The Firm does not have any relevant disciplinary history.

---

<sup>1</sup> 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 American LLC; NYSE Arca, Inc.; and NYSE Chicago, Inc.

## VIOLATIONS

2. NYSE National Rule 11.5.1 provides: “Each ETP Holder shall establish, maintain and enforce written procedures which will enable it to supervise properly the activities of Associated Persons of the ETP Holder and to assure their compliance with applicable securities laws, rules, regulations and statements of policy promulgated thereunder, with the rules of the designated self-regulatory organization, where appropriate, and with Exchange Rules.”
3. NYSE National Rule 11.3.2 provides: “No ETP Holder shall engage in conduct in violation of the Exchange Act, the rules or regulations thereunder, the By-Laws, Exchange Rules or any policy or written interpretation of the By-Laws or Exchange Rules by the Board or an appropriate Exchange Committee. Every ETP Holder shall so supervise Persons Associated with the ETP Holder as to assure compliance with those requirements.”
4. From May 2018 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. For example, a Goldman surveillance report designed to identify potential wash trades excluded warrants until March 2021 and excluded rights and units until April 2022.
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 National Rules 11.5.1 and 11.3.2.

## SANCTIONS

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

- 1. Censure and fine in the amount of \$8,500 (resolved simultaneously with similar matters for a total fine of \$512,500).<sup>2</sup>**

---

<sup>2</sup> 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,

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 National 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 prejudgment of the Chief Regulatory Officer of NYSE National; 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 National employee; or any Regulatory Staff as defined in Rule 10.9120 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.

The Firm further specifically and voluntarily waives any right to claim that a person violated the ex parte communication prohibitions of Rule 10.9143 or the separation of functions prohibitions of Rule 10.9144, 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 National pursuant to NYSE National Rule 10.9216;
- 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 National Rule 10.9310(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 National shall publish a copy of the AWC on its website in accordance with NYSE National Rule 10.8313;
  - 4. NYSE National may make a public announcement concerning this agreement and the subject matter thereof in accordance with NYSE National Rule 10.8313; 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 National, Inc.,  
by delegated authority from its Chief  
Regulatory Officer