

**INVESTORS EXCHANGE LLC
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2019063499506**

TO: Investors Exchange LLC
c/o Department of Enforcement
Financial Industry Regulatory Authority (“FINRA”)

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

Pursuant to Rule 9.216 of the Investors Exchange LLC (“IEX”) 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, IEX will not bring any future actions against the firm alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. The firm 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 IEX, or to which IEX 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 IEX:

BACKGROUND

Goldman has been a member of IEX since August 2016. It 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.

SUMMARY

1. From August 2016 until April 2023 (the “Relevant Period”), seven of Goldman’s automated surveillance reports designed to identify potentially manipulative proprietary and customer trading activity failed to include certain securities, including warrants, rights, and units. As a result, Goldman’s supervisory system was not reasonably designed to identify potentially manipulative trading activity. Therefore, the firm violated IEX Rule 5.110.

Consent to a censure and a \$20,000 fine (resolved simultaneously with similar matters for a total fine of \$512,500).¹

FACTS AND VIOLATIVE CONDUCT

2. This matter originated from cross-market surveillance conducted by FINRA.
3. IEX Rule 5.110(a) provides, “Each Member shall establish and maintain a system to supervise the activities of each associated person that is reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable IEX Rules. Final responsibility for proper supervision shall rest with the Member.” IEX Rule 5.110(b) provides, “Each Member shall establish, maintain, and enforce written procedures to supervise the types of business in which it engages and the activities of its associated persons that are reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable IEX Rules.”
4. During the Relevant Period, seven of Goldman’s automated surveillance reports designed to identify potentially manipulative proprietary and customer trading failed to include certain securities, including warrants, rights, and units. For example, a Goldman surveillance report designed to identify potential wash trades excluded warrants from before August 2016 through March 2021 and excluded rights and units from before August 2016 through April 2022. Additionally, Goldman’s surveillance reports designed to identify potential marking the open and marking the close excluded warrants, rights, and units from before August 2016 until April 2018.
5. As a result of warrants, rights and units being excluded from certain of its surveillance reports, Goldman could not perform reasonable supervisory reviews of trading activity in warrants, rights, and units for potential manipulation. The affected reports would have identified fewer than 5,000 alerts (based on extrapolations from available data) for potentially manipulative trading activity in those securities from August 2016 through mid-April 2023. 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 written supervisory procedures failed to 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 seven surveillance reports for potentially manipulative trading excluded warrants, rights, and units. In February 2021, Goldman implemented reviews

¹ Those matters were brought by Cboe BYX Exchange, Inc.; Cboe BZX Exchange, Inc.; Cboe EDGA Exchange, Inc.; Cboe EDGX Exchange, Inc.; The Nasdaq Stock Market LLC; Nasdaq BX, Inc.; Nasdaq Phlx LLC; The New York Stock Exchange LLC; NYSE American LLC; NYSE Arca, Inc.; NYSE Chicago, Inc.; NYSE National, Inc. (collectively, the “Exchanges”); and FINRA.

to identify if any security has been inadvertently excluded from new or modified surveillance reports.

7. By failing to have a reasonably designed supervisory system, Goldman violated IEX Rule 5.110.

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

- a censure; and
- a \$20,000 fine (resolved simultaneously with similar matters for a total fine of \$512,500).²

The firm agrees to pay the monetary sanction in accordance with its executed Election of Payment Form.

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 FINRA staff.

II.

WAIVER OF PROCEDURAL RIGHTS

The firm specifically and voluntarily waives the following rights granted under IEX's 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 IEX Appeals Committee 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 Legal Officer, Chief Regulatory Officer, the IEX Appeals Committee, or any member of the IEX Appeals Committee, 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.

² Those matters were brought by the Exchanges and FINRA.

The firm further specifically and voluntarily waives any right to claim that a person violated the ex parte prohibitions of Rule 9.143 or the separation of functions prohibitions of Rule 9.144, 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 and accepted by FINRA's Department of Enforcement and the Office of Disciplinary Affairs ("ODA"), pursuant to IEX Rule 9.216;
- 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. This AWC will become part of the firm's permanent disciplinary record and may be considered in any future actions brought by IEX or any other regulator against the firm;
 - 2. IEX may release this AWC or make a public announcement concerning this agreement and the subject matter thereof in accordance with IEX Rule 8.340; and
 - 3. 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 IEX, or to which IEX 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 IEX is not a party.
- D. 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 IEX, nor does it reflect the views of IEX or its staff.

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

Name: Colleen M. O'Brien

Title: Managing Director & Senior Counsel

Accepted by IEX:

February 6, 2024

Date

Gerald O'Hara

Gerald O'Hara
Department of Enforcement

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

