

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 20070102251-01**

RECEIVED
2008 SEP 25 A 4:48
REGISTRATION & DISCLOSURE

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

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

Pursuant to NASD Rule 9216 of the FINRA Code of Procedure; Goldman, Sachs & Co. (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 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 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

The firm became a member of FINRA (formerly known as NASD) in 1936, and its registration remains in effect. The firm has the following relevant disciplinary history:

- In July 2006, NASD accepted GSCO's AWC (20050023340) in which the firm agreed to a censure and a total fine of \$20,000, \$5,000 of which was for violations of Marketplace Rule 6130 and \$10,000 for violations of Order Audit Trail System (OATS) rules, in October 2005.

- In May 2006, NASD accepted GSCO's AWC (20041000178) in which the firm agreed to a censure and a total fine of \$20,000, \$7,500 of which was for violations of Marketplace Rule 6130, from November 2003 to January 2004.
- In October 2005, NASD accepted GSCO's AWC (20050002343), in which the firm agreed to a censure and a total fine of \$15,000, \$5,000 of which was for violations of Marketplace Rule 6130, in August 2004.
- In July 2005, NASD accepted GSCO's AWC (20042000105) in which the firm agreed to a censure and a fine of \$25,000, \$5,000 of which was for violations of Marketplace Rule 6130, \$5,000 for violations of Marketplace Rule 4632, and \$5,000 for OATS violations, in July 2003.

FACTS AND VIOLATIVE CONDUCT

This matter is the result of the Department of Market Regulation's 2007 Trading and Market Making Surveillance Examination of the firm in review number 20070102251. The on-site portion of the examination took place on October 1 - 5, 2007. Attached as an exhibit is a list of the items the staff reviewed during the on-site examination for trade date July 31, 2007.

1. On July 31, 2007, the firm inaccurately reported to the Trade Reporting Facility the second leg of 115 "riskless" principal transactions in designated securities because it inaccurately designated the capacity of such transactions as "principal." The conduct described in this paragraph constitutes separate and distinct violations of NASD Marketplace Rule 4632(d).
2. On July 31, 2007, the firm transmitted to OATS nine reports that contained inaccurate, incomplete, or improperly formatted data. These inaccurate or incomplete reports represented about 17 percent of the sample of reports reviewed in the TMMS examination that the firm transmitted on July 31, 2007. The conduct described in this paragraph constitutes separate and distinct violations of NASD Rule 6955.

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

A censure and a total fine of \$12,500 (\$5,000 for violations of Marketplace Rule 4632 and \$7,500 for the OATS violations).

The firm agrees to pay the monetary sanctions upon notice that this AWC has been accepted and that such payment is due and payable. It has submitted an Election of Payment form showing the method by which it proposes to 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 FINRA staff.

II.

WAIVER OF PROCEDURAL RIGHTS

The firm specifically and voluntarily waives the following rights granted under FINRA'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 National Adjudicatory Council ("NAC") 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 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.

The firm further specifically and voluntarily waives any right to claim that a person violated the ex parte prohibitions of NASD Rule 9143 or the separation of functions prohibitions of NASD 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 and accepted by the NAC, a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs ("ODA"), pursuant to NASD 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. 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 the firm;
 - 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 NASD Rule 8310 and IM-8310-3; and
 - 4. 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 FINRA, or to which FINRA is a party, that is inconsistent with any part of this AWC. Nothing in this provision affects the firm's right to take legal or factual positions in litigation or other legal proceedings in which FINRA 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.

This Statement does not constitute factual or legal findings by FINRA, nor does it reflect the views of FINRA or its staff.

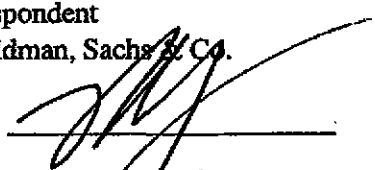
The firm certifies that it has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; that it has agreed to the AWC's provisions voluntarily; and that no offer, threat, inducement, or promise of any kind, other than the terms set forth herein and the prospect of avoiding the issuance of a Complaint, has been made to induce the firm to submit it.

8/16/08

Date

Respondent

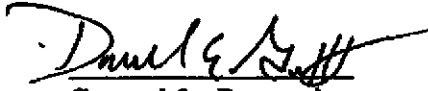
Goldman, Sachs & Co.

By: 

Name: Nanyang Fu

Title: Managing Director

Reviewed by:


Counsel for Respondent

Accepted by FINRA:

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

9/23/08
Date

Thomas R. Gira
Thomas R. Gira
Executive Vice President
Department of Market Regulation

Goldman, Sachs & Co.
2007 Trading and Market Making Surveillance Examination
Matter No. 20070102251

The staff reviewed the following samples during the examination:

<u>Sample Size:</u>	<u>Sample Description:</u>	<u>Sample Source/Period:</u>
39	Customer and proprietary sales, reviewed for compliance with SEC Rule 200(g) long/short/exempt sale recording requirements	From trade date July 31, 2007
3	Customer and proprietary short sales, reviewed for compliance with SEC Rule 203(b) security location requirements	From trade date July 31, 2007
27	Customer and proprietary sales reported to a TRF or OTCRF, for compliance with NASD Marketplace Rules 4632, 6130 and 6620 sale indicator reporting requirements	From trade date July 31, 2007
17	Customer and proprietary sales entered into the Nasdaq Exchange execution systems, for compliance with Nasdaq Rule 4755 long/short/exempt sale indicator entry requirements	From trade date July 31, 2007
23	Cancellations of trades reported to a TRF or OTCRF, for compliance with NASD Rules 4632(g), 6130(f), 6420(f) and 6620(f) trade report cancellation requirements	From trade date July 31, 2007
5	Limit and market orders executed as principal, for compliance with the order protection and best execution requirements of NASD Conduct Rules 2110, IM-2110-2, 2111, and 2320 and Marketplace Rule 6541, and Nasdaq Rules 2110, IM-2110-2, 2111 and 2320	From trade date July 31, 2007
3	Market orders with "not held" terms or from institutional customers, for compliance with NASD Conduct Rule 2320 and Nasdaq Rule 2320 best execution requirements	From trade date July 31, 2007
3	Market orders executed as principal, for compliance with NASD Conduct Rule 2320 and Nasdaq Rule 2320 best execution requirements	From trade date July 31, 2007
118	NASD Market Surveillance breaks for principal and riskless principal trades, for compliance with NASD Rules Marketplace Rules 4632, 4632A, 6130, 6420 and 6620 requirements for TRF, OTCRF and ADF/TRACS reporting	From trade date July 31, 2007
25	Trade executions effected otherwise than on an exchange for 18 orders in Nasdaq-listed or exchange listed securities, received from customers with accounts subject to a soft dollar agreement, for compliance with the 1934 Act Section 28(e) safe harbor which limits the accrual of soft dollar credits for riskless principal transactions to those reporting in compliance with NASD Marketplace Rules 4632 and 6420	From trade date July 31, 2007
3	Open limit orders to buy and/or open stop orders to sell securities that traded ex-dividend, for compliance with NASD Conduct Rule 3220 and Nasdaq Rule 4761	From trade date July 31, 2007
1	Trades reported to a TRF or OTCRF with a .PRP modifier, for compliance with NASD Conduct Rule 2320 and Marketplace Rules 4632, 6420 and 6620	From trade date July 31, 2007

<u>Sample Size:</u>	<u>Sample Description:</u>	<u>Sample Source/Period:</u>
25	Orders for NMS stocks in which the firm acts as a market center, for compliance with SEC Rule 605 order classification requirements	From trade date July 31, 2007
4	Datasets published for the monthly order execution report, for compliance with SEC Rule 605 requirement to publish accurate data. (A "dataset" is all required statistical data for a single order category, with each category representing a single unique combination of a security, order type and order size, as described in Rule 605.)	Report published for June 2007
1	Quarterly order routing report, for compliance with SEC Rule 606 requirements	From trade date July 31, 2007
22	Customer orders in OTC equity securities, for compliance with NASD Conduct Rules 2320(g) and 3110(b) requirements to ascertain and document the best interdealer market for transactions in such securities	From trade date July 31, 2007
2	Orders in securities required to be submitted to OATS, for compliance with NASD Marketplace Rule 6954 and NASD Rule 6955 and Nasdaq Rules 6954 and 6955 requirement to submit OATS information	From trade date July 31, 2007
249	Order/Trade records prepared and maintained in connection with the above samples, for general compliance with requirements of NASD Conduct Rule 3110 and SEC Rules 17a-3 and 17a-4	From trade date July 31, 2007
504	Trades reported to a TRF, OTCRF or ADF/TRACS in connection with the above samples, for general compliance with requirements of NASD Trade Reporting and ADF rules	From trade date July 31, 2007
125	Customer confirmations prepared and maintained in connection with the above samples, for compliance with SEC Rule 10b-10 disclosure requirements	From trade date July 31, 2007
10	CRD registration records for persons conducting and/or supervising the member's trading and market making activities, for compliance with NASD Rule Series 1020, 1030 and 1040 and Nasdaq Rule Series 1020, 1030 and 1040	List of trading personnel on July 31 and supervisory personnel in July 2007
N/A	The member's supervisory system, written supervisory procedures ("WSPs") and documents evidencing the implementation of the WSPs, for compliance with NASD Rule 3010 requirements to establish an implement a system that is reasonably designed to prevent and detect violations of applicable securities rules	WSPs in effect in July 2007 and documentation of supervisory reviews conducted in July 2007
N/A	The member's "Regular & Rigorous" review procedures (for assessing the execution quality of orders sent to other trading centers and/or internalized, for compliance with NASD Conduct Rules 2320 and 3010	From July 2007