



Notice of Disciplinary Action Against Goldman, Sachs & Co., a Member Organization

To: Members, Member Organizations, Participants and Participant Organizations
From: John C. Pickford, Enforcement Counsel, NASDAQ OMX PHLXSM
DATE: October 10, 2012

FINRA Matter No. 20100235041

Enforcement No. 2012-09

On September 25, 2012, the Business Conduct Committee (the "Committee") issued a disciplinary decision against Goldman, Sachs & Co. ("Goldman" or the "Firm"), a member organization of the Exchange. In response to a Statement of Charges issued in this action, Goldman submitted an Offer of Settlement, Stipulation of Facts and Consent to Sanctions ("Offer"). Solely to settle this proceeding, and without admitting or denying the charges, Goldman consented to findings that during the period between January 2004 and May 2010 (the "review period"), it had committed violations of Exchange Rules 707, 748, 760 and 785, and Section 17(a) of the Securities Exchange Act of 1934, as amended (the "Act") and Rule 17a-3 promulgated thereunder, in that Goldman improperly marked certain options orders on behalf of broker-dealers and market makers as "customer" through various proprietary order entry systems employed by the Firm to send options orders to the Exchange, resulting in: (i) an inaccurate audit trail; (ii) the potential that, in certain situations, orders and quotations were not properly prioritized and matched, given that orders marked as "customer" had priority over other order types; and (iii) an underpayment of execution fees that would have been remitted to the Exchange had the orders in question been routed using the correct options origin code. Additionally, staff concluded that Goldman had supervisory deficiencies related to these matters. During the period between October 2005 and September 2008, the Firm failed to adequately respond to a number of "red flags" relating to the proper coding of origin codes on orders routed to the options exchanges, in that despite the identification of several of the issues identified above on several occasions by certain compliance and technology employees of the Firm, the Firm failed to remediate its coding deficiencies until after the review period. Furthermore, during the review period Goldman failed to have supervisory systems and controls in place, including a separate system of follow-up and review, reasonably designed to achieve compliance with the Exchange's origin code requirements, in that the Firm failed to: (i) reasonably address origin code requirements in the development and programming of its order entry systems; (ii) maintain written supervisory procedures reasonably designed to achieve compliance with the Exchange's rules relating to the assignment of origin codes; (iii) adequately train its employees with respect to the significance of properly marking origin codes in its order entry systems; and (iv) adequately supervise its employees with respect to the proper marking of origin codes.

The Offer submitted by Goldman was accepted by the Committee and was the basis of its Decision. The Committee found that Goldman had violated Exchange Rules 707, 748, 760 and 785, and Section 17(a) of the Securities Exchange Act of 1934, as amended (the "Act") and Rule 17a-3 promulgated thereunder, concurred in the sanctions consented to by Goldman, and ordered the imposition of the following sanctions against the Firm: (i) a censure; and (ii) a total fine in the amount of \$6,750,000 due to the Exchange and seven other U.S. options exchanges (the Chicago Board Options Exchange, Inc.; BATS Exchange, Inc.; Boston Options Exchange LLC; The NASDAQ Options Market; International Securities Exchange, LLC; NYSE Amex; and NYSE Arca, Inc.), of which \$448,459 shall be paid to PHLX.

For more information, contact:

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