



## ASX Disciplinary Matter – Goldman Sachs Australia Pty Ltd

ASX Limited's Chief Compliance Officer ("CCO") has determined that Goldman Sachs Australia Pty Ltd ("GSA") did not comply with:

- ASX Clear (Futures) Operating Rules ("ASX CFR") 46.1, which requires a Clearing Participant to notify ASX Clear (Futures) on each business day of the number of Open Positions it wishes to remain open so that ASX Clear (Futures) may net-down any excess opposite Open Positions; and
- ASX CFR 46.5, which allows ASX Clear (Futures) to direct Clearing Participants to exclude from its notification under ASX CFR 46.1 certain Open Positions which do not, in the opinion of ASX Clear (Futures), contribute to market liquidity.

Pursuant to this rule, ASX Clear (Futures) has made a determination in relation to rule 46.5 (the "Direction"), which says, amongst other things, that Back-to-Back Open Positions within each Individual Account must be net-down by 8:00 pm on the Business Day following the creation of those positions.

The CCO imposed a fine of \$50,000 (plus GST) for the Contraventions, which GSA elected not to contest.

Defined terms have the meaning provided in the ASX CFR, unless provided.

### The circumstances of this matter are as follows:

On 5 December 2017, ASX contacted GSA to enquire about around 30,000 Back-to-Back Open Positions being held by GSA in Genium for the 90 day bank bill ("IR") Z17 contract, which was to expire on 7 December 2017.

ASX's enquiries led it to understand that with respect to a series of successive IR contracts traded by GSA's affiliate (together with GSA, "GS") as principal:

1. The relevant GS trading desk would create positions in the relevant contract by on-exchange trades. These would be recorded in the systems used by GS to record trades and manage risk (being (i) the system used to maintain and process listed derivatives clearing information including position information, and (ii) an internal trade booking and risk-management system) against the individual account from which the transaction was executed.
2. The trading desk that created the positions may, over the term of the contract, manage the risk in its trading books by creating certain internal bookings that denoted (i) the re-allocation between individual accounts of existing positions created by on-exchange trades ("**Reallocation Bookings**") or (ii) the transfer of notional internal positions between individual accounts which did not reflect the internal re-allocation of existing positions created by on-exchange trades ("**Notional Bookings**"). Specifically:
  - *Reallocation Bookings* - the booking reallocated existing positions created by on-exchange trades to a different individual account within the GSA house omnibus account (i.e., a different sub-account) by creating a notional internal position in the first sub-account and an equal and offsetting internal position in the second sub-account. Such allocations occurred between individual accounts held by the same legal entity and were not transferred on-exchange; or
  - *Notional Bookings* – the booking created a notional internal position between two different sub-accounts held by the same legal entity within the GSA house omnibus account where the first sub-account did not contain a corresponding number of already

existing exchange positions. Such a booking did not reflect the movement of open positions created by on-exchange trades, but were for internal risk allocation purposes.

3. Accordingly, a record for a given sub-account within the relevant house omnibus account in GS' systems may record positions created via:
  - on-exchange trades between a GS desk and another party;
  - Reallocation Bookings; and
  - Notional Bookings.
4. Throughout the term of a contract, GS Operations would perform daily net-downs of back-to-back open positions in each sub-account in the GSA house omnibus account, with the intention of complying with ASX CFR 46. In compliance with ASX CFR 46, Notional Bookings were not taken into account on a daily basis for the purpose of GSA's open position reporting.
5. Prior to April 2018, the Reallocation Bookings were also not taken into account on a daily basis for the purpose of GSA's daily reporting pursuant to ASX CFR 46. Instead, between two and three days prior to expiry of the contract, relevant GS Operations and Middle Office would perform a one-time net down of any Reallocation Bookings or Notional Bookings that were made over the term of the contract. Any resulting back-to-back open positions in sub-accounts in the GSA house omnibus account were closed out, and the number of open positions in each sub-account was netted down in the Exchange System accordingly.
6. A substantially similar process typically occurred for the AA, AP, IB, XT, XX and YT contracts, except for the reconciliation stage. ASX performed spot-checking with respect to some of these contracts and calculated material deviations in reported Open Interest with respect to the contracts that were spot checked.
7. Following consultation with ASX, GS implemented a technological update which remediated the issue.
8. GSA acknowledged that the closing out of back to back open positions resulting from the Reallocation Bookings two or three days prior to expiry as described in paragraph 5 above did not comply with ASX CFR 46.1 / 46.5.

This practice of not taking into account Reallocation Bookings for the purpose of GSA's daily reporting pursuant to ASX CFR 46 did not provide ASX Clear (Futures) with an accurate indication of GSA's open interest. Accordingly, it cannot be said that GSA properly advised ASX of the positions it wished to remain open, which affected ASX's capacity to present Open Interest information to the market.

In determining penalty, the CCO, among other things, took into account the following matters:

- i. The Contravention potentially had a materially adverse impact on the fairness or effectiveness of the clearing facility operated by ASX Clear (Futures). Futures participants have a legitimate interest in the integrity of reported open interest figures, which is reflected in the inclusion of sub-part 46 in the ASX CFR. Reported open interest is used by traders, together with price and traded volume, to predict market trends and to gauge liquidity. Several participants have communicated to ASX the importance of accurately-reported open interest figures to their commercial activities. Accordingly, any errors in the reporting of it negatively impacts the market and ASX 24's reputation.
- ii. As the IR contract is physically deliverable on expiry, accurate open interest figures are especially critical to participants trading in it.
- iii. The Contravention appears to have occurred over an extended period of time.
- iv. GSA made an early decision not to contest the Contravention.
- v. GSA has assisted and cooperated with ASX in its investigation.
- vi. GSA has undertaken meaningful remediation.

- vii. GSA has a good history of complying with ASX's operating rules.
- viii. The Contravention was unintentional.
- ix. GSA did not derive a financial benefit or other commercial advantage from the Contravention.

**Sanction Guidelines**

The CCO determined that, given the circumstances in this matter, a fine of \$50,000 (plus GST) was an appropriate sanction.

The CCO is of the opinion that this sanction will act as a deterrent and appropriately serves the interests of ASX and its participants.