

## **ASX Disciplinary Matter – Goldman Sachs Australia Pty Limited**

ASX Limited's Chief Compliance Officer (the '**CCO**') has determined that Goldman Sachs Australia Pty Ltd ('**GSA**'), failed to comply with:

- (a) ASX Settlement Operating Rule ('**ASX SR**') 6.8A.5(a) and its related procedure, being its obligation to report its Securities On Loan Position by the prescribed time;
  - (b) ASX SR 6.8A.5(b) and its related procedure, being its obligation to report its Securities Borrowed Position by the prescribed time;
  - (c) ASX SR 6.8A.5(c) and its related procedure, being its obligation to report its Securities Committed Position by the prescribed date and time; and
  - (d) ASX SR 6.1.1(a), being its obligation to all times continue to satisfy the admission requirements in ASX SR 4.3.1(h) and 4.18.1 to have adequate resources and processes to comply with its obligations under the rules in this regard,
- together, the '**Contraventions**'.

The CCO imposed a total fine of \$45,000 (plus GST) for the Contraventions.

### The circumstances of this matter are:

GSA has been admitted as an ASX Settlement Participant since 18 August 1987.

On 14 December 2009, ASX introduced ASX Settlement Operating Rules 6.8A.4 and 6.8A.5.

As from that time under these rules, a Securities Lending Participant was required to provide certain reporting to ASX of securities on loan, securities borrowed and securities committed positions of the participant and of its related bodies corporate that are not themselves a participant, on a daily or quarterly basis (as applicable).

On 14 December 2021, ASX identified that GSA had flagged a number of transactions with an "L" code in CHESS. As these transactions were securities lending transactions undertaken by GSA's Non-Participant Related Bodies Corporate ('**NPRBC**'), GSA was expected to have reported these transactions to ASX in accordance with ASX SR 6.8A.5.

In response to a request for information issued by ASX, GSA indicated that while it had submitted its securities borrowing and lending ("**SBL**") activity reports until the beginning of 2014, when it ceased SBL activity, following that point GSA had failed to maintain appropriate procedures regarding the lodgement of SBL reports owing to the fact that it had erroneously determined that such reporting was no longer required. Following further enquiries by ASX, GSA determined that its failure to report the SBL activities of its NPRBCs in fact dated from 2011 (when those entities became GSA's NPRBCs) rather than 2014.

GSA is understood to now be in compliance with its relevant SBL reporting obligations.

### In determining the penalty, the CCO took into account, amongst other factors, the following:

- (a) The Contraventions could have significantly impacted:
  - (i) ASX's compliance with the Reserve Bank of Australia's financial stability standards ('**FSS**') for securities settlement facilities, which apply in relation to the clearing and settlement facility operated by ASX; as well as
  - (ii) the reputation of ASX and the clearing and settlement facility it operates.

- (b) The reporting provided for under ASX SR 6.8A is relied on by ASX to promote greater transparency as to the potential settlement risk inherent in securities lending positions and to achieve compliance with ASX's obligations under FSS 18.3 for securities settlement facilities. Failures to report, or errors in reporting of securities lending information have the potential to negatively impact market transparency, ASX's reputation and the objectives of the FSS.
- (c) The prolonged period, systemic nature and failure to identify the Contraventions. ASX observes that the information provided by GSA revealed a failure to identify and report its Securities on Loan, Securities Borrowed and Securities Committed Positions for an extended duration.
- (d) The Contraventions were inadvertent and unintentional.
- (e) GSA did not derive a financial benefit or other commercial advantage from the Contraventions.
- (f) GSA did not act unconscionably towards, or otherwise unfairly take advantage of, clients or counterparties.
- (g) The Contraventions were identified by ASX's inquiries and investigation.
- (h) GSA demonstrated a cooperative stance with ASX in its investigations of the Contraventions.
- (i) GSA has a good history of complying with ASX's operating rules.
- (j) The 'totality principle', as explained in Annexure A to the ASX Enforcement and Appeals Rulebook.

**Sanction Guidelines**

The CCO determined that, given the circumstances in this matter, a fine of \$45,000 (plus GST) was an appropriate sanction.