

**BATS BZX EXCHANGE, INC.**  
**LETTER OF ACCEPTANCE, WAIVER AND CONSENT**  
**NO. 20140406429-01**

**TO:** Bats BZX Exchange, Inc.  
c/o Department of Market Regulation  
Financial Industry Regulatory Authority ("FINRA")

**RE:** Goldman Sachs Execution & Clearing, L.P., Respondent  
Broker-Dealer  
CRD No. 3466

Pursuant to Rule 8.3 of the Rules of Bats BZX Exchange, Inc. ("BZX"), Goldman Sachs Execution & Clearing, L.P. (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, BZX 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 BZX, or to which BZX 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 BZX:

**BACKGROUND**

The firm has been a member of FINRA since March 31, 1948, and a member of BZX since October 15, 2008. The firm's registrations with FINRA and BZX remain in effect.

**RELEVANT PRIOR DISCIPLINARY HISTORY**

The firm has no prior relevant disciplinary history.

**FACTS AND VIOLATIVE CONDUCT**

In Matter No. 20140406429, the Market Making Analysis team of FINRA's Department of Market Regulation reviewed the firm's compliance with SEC Rule 611(c) of Regulation NMS ("SEC Rule 611") on behalf of BZX during the period from June 28, 2012 through April 9, 2014 (the "Review Period") as a result of a referral from BZX. The firm did not intend for non-broker-dealer clients to be permitted to transmit intermarket sweep orders through its systems. However, the firm failed to institute a

technological block that prevented the routing of intermarket sweep orders from non-broker-dealer clients, resulting in the firm receiving and handling a non-broker-dealer client's inadvertently marked intermarket sweep orders without complying with SEC Rule 600(b)(30) of Regulation NMS.

1. During the Review Period, the firm failed to take reasonable steps to establish that intermarket sweep orders routed by its non-broker-dealer customers met the definitional requirements set forth in SEC Rule 600(b)(30) of Regulation NMS. The conduct described in this paragraph constitutes a violation of SEC Rule 611(c) and BZX Rules 11.9(d) and 3.1.
2. During the Review Period, the firm did not establish, maintain, and enforce written supervisory procedures or technological controls that were reasonably designed to achieve compliance with SEC Rule 611(c) and BZX Rule 11.9(d) in the case of its non-broker-dealer customers. The conduct described in this paragraph constitutes a violation of BZX Rules 5.1 and 3.1.

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

A censure, a fine of \$50,000, and an undertaking to submit to the COMPLIANCE ASSISTANT, LEGAL SECTION, MARKET REGULATION DEPARTMENT, 9509 KEY WEST AVENUE, ROCKVILLE, MD 20850, no later than 14 days after the AWC becomes final, a signed, dated letter or e-mail from a work-related account of the registered principal to MarketRegulationComp@finra.org, acknowledging that the firm revised its written supervisory procedures to address the deficiencies described in paragraph 1.A.2 above, and the date the revised procedures were implemented.

The firm agrees to pay the monetary sanction 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 BZX.

## II.

### WAIVER OF PROCEDURAL RIGHTS

The firm specifically and voluntarily waives the following rights granted under BZX Rules:

- A. To have a Statement of Charges issued specifying the allegations against the firm;
- B. To be notified of the Statement of Charges 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 Appeals Committee of the BZX's Board of Directors 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 Chief Regulatory Officer ("CRO"), in connection with her 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 BZX Rule 8.16, 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 CRO, pursuant to BZX Rule 8.3;
- 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 BZX or any other regulator against the firm;
  - 2. this AWC will be published on a website maintained by BZX in accordance with BZX Rule 8.11, *Interpretations and Policies .01*. In addition, this AWC will be made available through FINRA's public

disclosure program in response to public inquiries about the firm's disciplinary record; 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 BZX, or to which BZX 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 BZX 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 BZX, nor does it reflect the views of BZX 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.

2/7/2017  
Date

Goldman Sachs Execution & Clearing, L.P.  
Respondent

By: Kyle Czepiel  
Name: **Kyle Czepiel**  
Title: **Managing Director**

Reviewed by:

Colleen M. O'Brien  
Counsel for Respondent Colleen M. O'Brien  
Firm Name Goldman, Sachs & Co.  
Address 200 West Street  
City/State/Zip New York, NY 10282  
Phone Number

2/21/2017  
Date

Tamara Schademann  
Tamara Schademann  
Chief Regulatory Officer  
Bats BZX Exchange, Inc.

