Dubai Financial Services Authority

ENFORCEABLE UNDERTAKING

Article 89, Regulatory Law (DIFC Law No. 1 of 2004, as amended, DIFC Law No. 7 of 2006)

This Enforceable Undertaking is made under and for the purposes described in Article 89 of the *Regulatory Law 2004 ("the Regulatory Law")*. The Dubai Financial Services Authority ("DFSA") accepts this Enforceable Undertaking from [redacted] ("[redacted]").

Recital of Facts.

This Enforceable Undertaking is based on the admission of the following facts:

1. GFS Investments (Middle East) Limited ("GFS") is a wholly owned subsidiary of GFS Forex and Futures Inc ("GFS Inc") and was licensed by the DFSA on 17 May 2007 as a Category 4 Authorised Firm.
2. Under its license GFS is Authorised to arrange credit or deals in Investments and advise on Financial Products or credit in respect of Options or Futures. GFS is not authorised to Deal in Investments as Agent or to deal with customers who are not Clients, as defined in the DFSA Rulebook, Conduct of Business Module.[1]
3. [redacted] is the Compliance and Anti Money Laundering Reporting Officer ("Compliance Officer") of GFS having held this position since 10 December 2007.
4. His duties as Compliance Officer included, among other things, assuring that GFS complied with all regulations, policies and procedures of the jurisdiction in which it operates, reporting and updating management and the board of directors on the latest regulatory developments and any other

[1] Conduct of Business Rules 3.2.1.(1) and (2) COB/VER13/12-07).

regulatory duties as required or directed from time to time by the management of GFS.

5. Prior to being appointed Compliance Officer, [redacted] held the position of Administration Manager/Head of Customer Services Department at GFS. [redacted] became Compliance Officer after the former Compliance and Anti money laundering Officer resigned.

6. [redacted] was supported in his role as Compliance Officer initially by the financial services compliance consultancy firm Total Solutions Middle East Limited ("Total Solutions"). Total Solutions provided mentoring to [redacted] for approximately 2 hours each week from 8 November 2007 to the date of his appointment as Compliance Officer.

7. Customers were introduced to GFS by employees known as Business Associates who facilitated access, by customers, to an online foreign currency trading platform offered by GFS Inc. These customers were not Clients.

8. When introducing a number of customers, the Business Associates knowingly recorded incorrect particulars of the customers' current net worth, liquid assets and financial experience in their Customer Account Applications.

9. Business Associates also conducted trading on the GFS Inc platform on behalf of a number of customers when not authorised by the DFSA to do so.

10. The trading was in many instances unsuitable and not made in the best interests of the customers. The trading was characterised by the high number and frequency of transactions and resulted in high commissions and fees being paid by customers.

11. A number of GFS customers suffered losses as a result of the unauthorised trading conducted by Business Associates.

12. [redacted] knew Business Associates were trading on behalf of customers and did not take adequate steps to stop them.

Areas of Concerns

[redacted] acknowledges the concerns of the DFSA about his conduct as an Authorised Individual of GFS.

13. The DFSA is concerned that [redacted] contravened Article 85 of the Regulatory Law, by failing to do an act or thing that a person is required to do, namely comply with the following Principles for Authorised Individuals as set out in the General Module of the DFSA Rule book.

Principle 1 – Integrity

a. [redacted] has not observed high standards of integrity and fair dealing in carrying out his licensed functions in that he knew Business Associates were trading on behalf of customers and did not take adequate steps to stop them. Further, this occurred in circumstances where the trading conducted by Business Associates on behalf of customers was in many instances unsuitable and not in the best interests of customers.

b. [redacted] was responsible for obtaining backdated undertakings from Business Associates stating that they did not trade for customers, despite being aware that such trading had occurred.

c. [redacted] was responsible for obtaining back dated acknowledgements from customers acknowledging they were not Clients in circumstances where customers were not made aware of the Client restriction.

Principle 3 – Market Conduct

d. [redacted] failed to observe proper standards of conduct in financial markets in carrying out every Licensed Function in that whilst he was an Authorised Individual of GFS, Business Associates traded on behalf of customers, outside the scope of GFS's license and in

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circumstances where the trading conducted by Business Associates was in many instances unsuitable and not in the best interests of customers.

Principle 2 - Due skill, care and diligence,

Principle 5 – Management, Systems and Controls and

Principle 6- Compliance.

e. While [redacted] was an Authorised Individual of GFS:

i GFS provided Financial Services to GFS customers who did not qualify as Clients[2];

ii Business Associates traded on behalf of GFS customers[3]; and

iii certain Business Associates employed by GFS were not fit and proper, competent and adequately trained to comply with obligations applicable in the DIFC[4],

and therefore [redacted]:

iv failed to act with due skill care and diligence;

v failed to take reasonable care to ensure that the business of GFS was organised so that it can be managed and controlled effectively; and

vi failed to take reasonable care to ensure that the business of GFS complied with any legislation applicable in the DIFC.

Terms and Conditions of Undertaking

The terms and conditions of this Enforceable Undertaking are as follows:

[2] In breach of COB 3.2.1 (COB/VER13/12-07)
[3] In breach of Article 41(1)
[4] GEN 5.3.19(1)

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14. [redacted] undertakes to refrain for a period of five years from the date of this undertaking, from performing any function in or in connection with the provision of Financial Services or Ancillary Services in or from the Dubai International Financial Centre.

15. [redacted] undertakes to pay a sum of USD$5000 to the DFSA within 30 days from the date of this Enforceable Undertaking.

16. [redacted] undertakes not to disclose to any person, apart from his legal advisor for the purpose of obtaining legal advice, any details of this undertaking until otherwise advised in writing by the DFSA save as otherwise required by the legislation, rules and regulations of any other financial services regulator.

Remedies for Breach of Undertaking

17. Should [redacted] fail to satisfy the terms and conditions of this Enforceable Undertaking as determined by the DFSA, in its sole discretion, the DFSA reserves the right to pursue any remedy available to it in law without further notice, including but not limited to those listed in Article 89(4) of the Regulatory Law.

Acknowledgements

18. The facts as set out in this undertaking are without prejudice to the DFSA or [redacted] in any other proceedings including, without limitation, any civil, administrative or criminal actions or proceedings that may be brought by any other person or agency. [redacted] does not acknowledge any liability with respect to matters raised herein except solely to the extent of the undertakings set out in paragraphs 14 to 17 above.

19. This undertaking does not affect the DFSA's power to investigate or take further action in relation to any other concerns not the subject of

the facts as recited above, or arising from future conduct.

20. The DFSA may issue a media release on execution of this undertaking referring to its terms and the concerns of the DFSA that led to its execution. Further the DFSA may make this undertaking available for [redacted] public inspection.

[redacted]

04th Sept 2008
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Date

Accepted by the Dubai Financial Services Authority under Article 89 of the Regulatory Law by its authorise delegate:

[redacted]

7 September 2008
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Date

Director and Head of Enforcement, DFSA