

OCTOBER 22, 2020

Details of Goldman Sachs' Two-Decades-Long RAP Sheet of Repeated Illegal Conduct



INTRODUCTION

This Report details each of the major legal actions Goldman Sachs has been subject to over the past 20 years. This includes over 35 major cases resulting in over \$13.5 billion in fines and settlements. Goldman's decades-long crime spree runs the gamut of illegal conduct—from fraud to market manipulation and even violations of election law—and it includes Goldman's key role in enabling the historic fraud against the Malaysian people in the 1MDB scandal.¹

Ultimately, what the long list of actions detailed below demonstrates is that Wall Street megabanks like Goldman are not only too-big-to-fail, but also too-big-to-jail. While the fines and penalties levied against Goldman appear significant, Goldman's recidivism shows otherwise: even billions of dollars in fines are little more than a cost of doing business. These cases represent a failure of the cops on the Wall Street beat who are supposed to punish and deter illegal activity in our financial markets. From the data below, readers can judge for themselves the scope of Goldman's illegality and the failure of those cops to adequately address the problem.

¹ <https://bettermarkets.com/sites/default/files/Better%20Markets%20-%20Goldman%20Sachs%27%201MDB%20Four%20Monkeys%20Defense%2004-25-2019.pdf>.

Goldman RAP Sheet Details²

Goldman Sachs

| Date | Description | Period of Violations | Government/Private Action | Amount |
|---------|--|--------------------------------------|--|----------------|
| 4/2000 | The SEC brought and settled civil administrative fraud charges against ten Wall Street and regional brokerage firms for overcharging municipalities for government securities in a practice commonly known as yield burning. ³ | 1990-1994 Pre ⁴ | Securities and Exchange Commission NASD Regulation Inc. settlement with 7 brokerage firms | \$5.2 million |
| 12/2002 | SEC, NYSE, and NASD announced joint actions against five broker-dealers for violations of record-keeping requirements concerning e-mail communications storage and retention. The firms consented to the imposition of fines totaling \$8.25 million. ⁵ | 1999-2001 Pre | Securities and Exchange Commission | \$1.65 million |
| 4/2003 | SEC along with the New York Attorney General, NASD, NYSE, and state securities regulators -- enforcement actions against ten of the nation's top investment firms alleging undue influence of investment banking interests on securities research at brokerage firms. ⁶ | 1999-2001 Pre | Securities and Exchange Commission & other agencies/attorneys general | \$110 Million |

² Other resources consulted, in addition to those cited in footnotes throughout the RAP Sheet: "U.S. Haul from Credit Crisis Bank Fines Hits \$150bn," FINANCIAL TIMES (Aug. 6, 2017), available at <https://www.ft.com/content/71cee844-7863-11e7-a3e8-60495fe6ca71>; "Seven years on from crisis, \$150 billion in bank fines and penalties" (Apr. 30, 2015), available at <https://www.cnbc.com/2015/04/30/7-years-on-from-crisis-150-billion-in-bank-fines-and-penalties.html>.

³ <https://www.sec.gov/news/digest/2000/dig040600.pdf>

⁴ The violations are divided into three time periods, which are spelled out in the [RAP Sheet Report](#) released on September 8, 2020: "Pre" refers to pre-2008 crash; "CR" refers to 2008 crash related; and, "Post" refers to post-2008 crash.

⁵ <https://www.sec.gov/news/press/2002-173.htm>

⁶ <https://www.sec.gov/litigation/litreleases/lr18114.htm>; <https://www.sec.gov/news/press/2003-54.htm>

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| 9/2003 | Firm violated the anti-fraud laws applicable to broker-dealers and government securities broker-dealers. Goldman Sachs lacked adequate safeguards to prevent the misuse of material nonpublic information obtained from paid consultants based on consultant's misappropriation of non-public information regarding the U.S. Treasury 30-year bond discontinuation. ⁷ | 2001 Pre | Securities and Exchange Commission | \$9.3 million |
| 3/2004 | The NYSE and SEC found that, between 1999 and 2003, five specialist firms, including Spear Leeds & Kellogg, violated federal securities laws and Exchange rules by executing orders for their dealer accounts ahead of executable public customer or "agency" orders. The firms violated their basic obligation to match executable public customer buy and sell orders and not to fill customer orders through trades from the firm's own account when those customer orders could be matched with other customer orders. ⁸ | 1999-2003 Pre | Securities and Exchange Commission | \$45.2 million |
| 1/2005 | Morgan Stanley and Goldman Sachs each agreed to pay \$40 million to settle allegations relating to the firms' allocations of stock to institutional customers in initial public offerings (IPOs) underwritten by the firms during 1999 and 2000. ⁹ | 1999-2000 Pre | Securities and Exchange Commission | \$40 million |
| 5/2006 | SEC announced the settlement of proceedings against 15 broker-dealer firms for engaging in violative practices in the auction rate securities market. ¹⁰ | 2003-2004 Pre | Securities and Exchange Commission | \$1.5 million |

⁷ <https://www.sec.gov/litigation/admin/34-48436.htm>

⁸ <https://www.sec.gov/news/press/2004-42.htm>

⁹ <https://www.sec.gov/news/press/2005-10.htm>

¹⁰ <https://www.sec.gov/news/press/2006/2006-83.htm>; <https://www.sec.gov/litigation/admin/2006/33-8684.pdf>

Goldman Sachs

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| 3/2007 | Goldman Sachs Execution and Clearing L.P. violated the regulations requiring brokers to accurately mark sales long or short and restricting stock loans on long sales. ¹¹ | 2000-2007 Pre | Securities and Exchange Commission | \$2 million |
| 8/2008 | Settled allegations that these firms made misrepresentations in their marketing and sales of auction rate securities. These firms marketed and sold auction rate securities as safe, cash-equivalent products, when in fact they faced increasing liquidity risk. Goldman Sachs, Merrill Lynch, and Deutsche Bank returned an estimated \$10 billion to investors collectively. ¹² | 2007-2008 Pre | NY AG | \$22.5 million |
| 3/2009 | Filled orders through proprietary trades rather than through other customer orders, causing customer orders to be disadvantaged by approximately \$6 million. ¹³ | 1999-2005 Pre | SEC | \$7.2 million (\$1.2 million penalty; \$6 million disgorgement) |
| 5/2009 | Goldman settled to resolve investigation into securitization of subprime loans, including origination of “unfair” loans under state law, failure to adequately investigate loans purchased for securitization, and failure to make available certain information to potential investors. ¹⁴ | 2007 and prior CR | MA AG | \$60 Million total (\$10 million penalty and loan restructuring of \$50 million) |
| 5/2010 | Failed to properly close out certain fail to deliver positions required by Rule 204T of Regulation SHO ¹⁵ | 2008 Pre | SEC | \$225,000 |
| 7/2010 | Goldman Sachs & Co. agreed to pay \$550 million and reform its business practices to settle SEC charges that Goldman committed securities fraud when it misled investors in the ABACUS 2007-AC1 CDO product as | 2007 CR | Securities and Exchange Commission | \$550 million total (\$15 million disgorgement; \$535 million penalty) ¹⁷ |

¹¹ <https://www.sec.gov/news/press/2007/2007-41.htm>

¹² <https://ag.ny.gov/press-release/attorney-general-cuomo-announces-settlements-merrill-lynch-goldman-sachs-and-deutsche>

¹³ <https://www.sec.gov/litigation/admin/2009/34-59505.pdf>

¹⁴ <https://www.mass.gov/files/documents/2016/08/ne/2009-05-07-goldman-settlement.pdf>

¹⁵ <https://www.sec.gov/litigation/admin/2010/34-62025.pdf>

¹⁷ <https://www.sec.gov/litigation/litreleases/2010/consent-pr2010-123.pdf>

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| | the U.S. housing market was starting to collapse. ¹⁶ | | | |
| 7/2010 | Goldman settled with the British Financial Services Authority for failure to ensure adequate systems and controls to enable compliance with UK regulatory reporting obligations, which resulted in the failure to notify the FSA of the SEC investigation into the ABACUS 2007-AC1 CDO. ¹⁸ | 2007 CR | Financial Services Authority | £17.5 million (~\$22.225 million) |
| 3/2012 | Goldman Sachs Execution & Clearing, L.P. agreed to pay a \$5.5 million civil monetary penalty and \$1.5 million in disgorgement to settle charges that it failed to diligently supervise accounts that it carried from about May 2007 to December 2009. ¹⁹ | 2007-2009 Pre | Commodity Futures Trading Commission | \$7 million (\$5.5 million penalty; \$1.5 million disgorgement) |
| 4/2012 | Goldman Sachs settled allegations that it lacked adequate policies and procedures to address the risk that firm analysts could share material, nonpublic information during weekly “huddles” where Goldman's stock research analysts met to provide their best trading ideas to firm traders and later to a select group of top clients. ²⁰ | 2006-2011 Post | Securities and Exchange Commission, FINRA | \$22 million ²¹ |
| 7/2012 | \$26.6 million to settle a suit brought by the Public Employee’s Retirement System of Mississippi accusing it of defrauding investors in a 2006 offering of mortgage-backed securities. ²² | 2006 CR | Public Employees’ Retirement System of Mississippi | \$26.6 million |

¹⁶ <https://www.sec.gov/litigation/complaints/2010/comp21489.pdf>

¹⁸ <http://www.fsa.gov.uk/pages/library/communication/pr/2010/141.shtml>

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https://www.cftc.gov/sites/default/files/idc/groups/public/@lrenforcementactions/documents/legalpleading/enf_goldmanorder031312.pdf

²⁰ <https://www.sec.gov/litigation/admin/2012/34-66791.pdf>

²¹ <https://www.sec.gov/litigation/admin/2012/34-66791.pdf>

²² <https://www.lexisnexis.com/legalnewsroom/litigation/b/jverdicts/posts/26m-settlement-reached-in-mortgage-backed-securities-shareholder-class-action>

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| 9/2012 | Goldman, Sachs and one of its former investment bankers settled alleged “pay-to-play” violations involving undisclosed campaign contributions to Massachusetts gubernatorial candidate, Timothy P. Cahill. ²³ | 2008-2010 Post | Securities and Exchange Commission | \$12 million total (\$8.25 million disgorgement and interest; \$3.75 million penalty) |
| 12/2012 | Goldman Sachs was ordered to pay a \$1.5 million civil monetary penalty to settle charges that it failed to diligently supervise its employees, resulting in an \$8.3 billion loss on certain futures contracts. ²⁴ | 12/2007 Pre | Commodity Futures Trading Commission | \$1.5 million |
| 12/2012 | Used municipal bond proceeds to pay for lobbyists. ²⁵ | 2006-2010 Post | FINRA | \$683,997 (\$568,000 fine; \$155,997 restitution) |
| 1/2013 | Goldman Sachs [and Morgan Stanley] reached agreements to pay a total of \$557 million in cash payments and other assistance to help mortgage borrowers. ²⁶ | 2009-2010 CR | Federal Reserve | \$330 million ²⁷ |
| 11/2014 | Fine for allowing their analysts to solicit business and offer favorable research coverage in connection with a planned Toys R Us 2010 IPO. ²⁸ | 2010 Post | FINRA | \$5 million |
| 8/2014 | Settlement concerning alleged securities laws violations in connection with private-label mortgage-backed securities purchased by Fannie Mae ²⁹ and Freddie Mac. ³⁰ | 2005-2007 CR | Federal Housing Finance Agency | \$3.15 billion |

²³ <https://www.sec.gov/litigation/admin/2012/34-67934.pdf>

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https://www.cftc.gov/sites/default/files/idc/groups/public/@lrenforcementactions/documents/legalpleading/enf_goldmanorder120712.pdf

²⁵ <http://www.finra.org/newsroom/2012/finra-sanctions-five-firms-44-million-using-municipal-and-state-bond-funds-pay>

²⁶ <https://www.federalreserve.gov/newsevents/pressreleases/bcreg20130116a.htm>

²⁷ <https://dealbook.nytimes.com/2013/01/16/goldman-and-morgan-stanley-strike-deal-over-foreclosure-practices/>

²⁸ <http://www.finra.org/newsroom/2014/finra-fines-10-firms-total-435-million>

²⁹ https://www.fhfa.gov/Media/PublicAffairs/PublicAffairsDocuments/2014%208%2022%20%20FHFA-Goldman%20Sachs%20Settlement%20Agreement_Fannie%20Mae.pdf

³⁰ <https://www.fhfa.gov/Media/PublicAffairs/PublicAffairsDocuments/2014%208%2022%20%20FHFA-Goldman%20Sachs%20Settlement%20Agreement-Freddie%20Mac.pdf>

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| 6/2015 | Charges against Goldman, Sachs & Co. for having inadequate controls in place to prevent erroneous option trades, resulting a trading incident that resulted in 16,000 erroneous executions of options contracts in violations of the market access rule. ³¹ | 2007-2009 Post | Securities and Exchange Commission | \$7 million |
| 6/2015 | The SEC announced enforcement actions against 36 municipal underwriting firms for violations in municipal bond offerings, imposing civil penalties up to \$500,000. ³² | 2010-2014 Post | Securities and Exchange Commission | \$500,000 |
| 1/2016 | \$15 million to settle charges that its securities lending practices violated federal regulations and, when questioned by SEC examiners in 2013, provided incomplete and unclear responses that adversely affected and prolonged the examination. ³³ | 2008-2013 Post | Securities and Exchange Commission | \$15 million |
| 4/2016 | The Justice Department, along with federal and state partners, announced a \$5.06 billion settlement with Goldman Sachs related to Goldman's conduct in the packaging, securitization, marketing, sale, and issuance of residential mortgage-backed securities. \$2.385 billion civil fines and \$1.8 billion in other relief to borrowers and homeowners. \$875 million to resolve claims by other federal entities and state claims. ³⁴ | 2005-2007 CR | Justice Department multiagency referral | \$5.06 billion total (\$2.385 billion penalty; \$1.8 billion borrower relief; \$875 million to federal and state entities) |

³¹ <https://www.sec.gov/litigation/admin/2015/34-75331.pdf>

³² <https://www.sec.gov/news/pressrelease/2015-125.html>

³³ <https://www.sec.gov/litigation/admin/2016/34-76899.pdf>

³⁴ <https://www.justice.gov/opa/pr/goldman-sachs-agrees-pay-more-5-billion-connection-its-sale-residential-mortgage-backed>

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| 8/2016 | \$36.3 million civil money penalty for its unauthorized use and disclosure of confidential supervisory information and to implement an enhanced program to ensure the proper use of confidential supervisory information. ³⁵ | 2012-2015 ³⁶ Post | Federal Reserve | \$36.3 million |
| 12/2016 | Goldman attempted, by and through certain of its traders in New York, on many occasions to manipulate and made false reports concerning the U.S. Dollar International Swaps and Derivatives Association Fix (USD ISDAFIX), a global benchmark for interest rate products. ³⁷ | 2007-2012 Post | Commodity Futures Trading Commission | \$120 million |
| 1/2018 | Violation of the National Flood Insurance Act ³⁸ | 2018 Post | Federal Reserve | \$90,000 |
| 1/2018 | Prior to September 1, 2011, indirectly serviced residential mortgage loans through the Bank's indirect subsidiary, Litton Loan Servicing LP, and initiated foreclosure actions on delinquent mortgage loans that were carried out through unsafe or unsound practices. Litton also had inadequate policies and procedures and internal controls in place for foreclosure-related services. ³⁹ | 2009-2011 Post | Federal Reserve | \$14 million |
| 5/2018 | \$54.75 million civil money penalty for the firm's unsafe and unsound practices in its foreign exchange (FX) trading business. Ineffective controls resulted in failure to detect and address its traders' use of electronic chatrooms to communicate with competitors about trading positions. ⁴⁰ | 2008-2013 Post | Federal Reserve, NY Department of Financial Services | \$54.75 million |

³⁵ <https://www.federalreserve.gov/newsevents/pressreleases/files/enf20160803a1.pdf>

³⁶ <https://www.federalreserve.gov/newsevents/pressreleases/enforcement20160803a.htm>

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<https://www.cftc.gov/sites/default/files/idc/groups/public/@lrenforcementactions/documents/legalpleading/enfgoldmansachsorder122116.pdf>

³⁸ <https://www.federalreserve.gov/newsevents/pressreleases/files/enf20180112b1.pdf>

³⁹ <https://www.federalreserve.gov/newsevents/pressreleases/files/enf20180112a2.pdf>

⁴⁰ <https://www.federalreserve.gov/newsevents/pressreleases/enforcement20180501b.htm>

Goldman Sachs

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|---------|--|--------------------------|--|-----------------------------------|
| 3/2019 | Misreported 220 million transactions in breach of the EU's securities rulebook. ⁴¹ | 2007-2017 Post | UK FCA | \$45 million |
| 11/2019 | Failed to record audio recordings in relation to swaps trading as required by CFTC recordkeeping requirements. ⁴² | 2014 Post | CFTC | \$1 million civil money penalty |
| 11/2019 | Settlement of antitrust claims related to price-fixing in GSE bonds. ⁴³ | 2009-2019 Post | States (treasurers/AGs as appropriate) | \$20 million civil settlement |
| 7/2020 | Settlement with the Malaysian government for Goldman's involvement with the 1MDB scandal | 2012-2013 Post | Malaysian Government | \$3.9 billion criminal settlement |

⁴¹ <https://www.complianceweek.com/blogs/global-glimpses/fca-fines-goldman-sachs-343m-for-transaction-reporting-failures>

⁴² <https://www.cftc.gov/PressRoom/PressReleases/8086-19>.

⁴³ <https://www.law360.com/articles/1220264/goldman-sachs-to-exit-bond-price-fixing-suit-with-20m-deal>

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Better Communities

Better Markets is a non-profit, non-partisan, and independent organization founded in the wake of the 2008 financial crisis to promote the public interest in the financial markets, support the financial reform of Wall Street and make our financial system work for all Americans again. Better Markets works to restore layers of protection between hardworking Americans on Main Street and Wall Street's riskiest activities. We work with allies—including many in finance—to promote pro-market, pro-business and pro-growth policies that help build a stronger, safer financial system that protects and promotes Americans' jobs, savings, retirements and more.