
FINAL NOTICE

To: **GAM International Management Limited**

Reference Number: 122331

Address: 8 Finsbury Circus, London EC2M 7GB, United Kingdom

Date: 29 March 2022

1. ACTION

- 1.1. For the reasons given in this Final Notice, the Authority hereby imposes a financial penalty of £9,103,523 on GAM International Management Limited ("GIML") pursuant to section 206 of the Act in respect of breaches of Principle 2 of the Authority's Principles for Businesses ("the Principles") between 28 November 2014 and 25 October 2017 ("the Relevant Period 1") and Principle 8 between 20 October 2016 and 8 March 2018 ("the Relevant Period 2").
- 1.2. GIML agreed to settle at an early stage of the Authority's investigation. GIML therefore qualified for a 30% discount under the Authority's executive settlement procedures. Were it not for this discount, the Authority would have imposed a financial penalty of £13,005,033 on GIML.

2. SUMMARY OF REASONS

- 2.1. GIML is a London based asset management firm.
- 2.2. Asset managers act as agents for their customers, making investment decisions in financial markets on their behalf. Confidence that asset managers will conduct themselves in accordance with regulatory requirements when acting on behalf of customers is central to the relationship of trust between the industry and its customers. When making investment decisions for customers, asset managers should not let conflicts of interest interfere with their obligations to customers.
- 2.3. The Authority has stressed the importance of asset managers managing conflicts of interest effectively, including by way of a Dear CEO letter in November 2012. In response to this Dear CEO letter, GAM provided the Authority with a written attestation in February 2013 stating that its arrangements were sufficient to ensure that it managed conflicts of interest effectively and in compliance with the Authority's rules. It was signed by the GIML CEO. For the reasons detailed below, this attestation had become incorrect within two years.
- 2.4. The Authority expects an asset manager to ensure that it:
 - 2.4.1. conducts its business with due skill, care and diligence; and
 - 2.4.2. manages conflicts of interest fairly, both between itself or its employees and its customers and between different customers.
- 2.5. GIML failed to do so. During the Relevant Period 1, it failed to ensure that its systems and controls for the identification, management and prevention of conflicts of interest operated effectively. During the Relevant Period 2, it failed to adequately control the conflicts of interest arising out of three investments, two of which related to Greensill.
- 2.6. As a consequence, GIML breached Principles 2 and 8 of the Principles for Businesses.

Principle 2

- 2.7. Principle 2 requires a firm to conduct its business with due skill, care and diligence.
- 2.8. During the Relevant Period 1, GIML's conflicts of interest framework was deficient in the following respects:

- 2.8.1. The Conflicts of Interest Committee (“COI Committee”) failed to meet between November 2014 and October 2017, a period of almost three years. This failure was significant as the COI Committee was meant to, but did not, have a central role in the management and oversight of conflicts of interest.
 - 2.8.2. GIML failed to sufficiently promote the identity and role of the Conflicts of Interest Officer (“COI Officer”) and the role of the COI Committee to its staff. The roles of the COI Officer and COI Committee were integral in ensuring the effective identification, management and prevention of conflicts of interest.
 - 2.8.3. The GIML Board of Directors had only limited discussion of conflicts of interest. This is despite the fact that the Board was responsible for establishing effective conflicts of interest frameworks and overseeing the identification and management of conflicts of interest.
 - 2.8.4. GIML produced only one internal audit report on conflicts of interest. As such, there was limited oversight by GIML’s third line of defence.
- 2.9. Accordingly, and in breach of Principle 2, GIML failed to ensure that its systems and controls for the identification, management and prevention of conflicts of interest operated effectively during the Relevant Period 1.

Principle 8

- 2.10. Principle 8 requires a firm to manage conflicts of interest fairly, both between itself and its customers and different customers.
- 2.11. During the Relevant Period 2, GIML failed to manage fairly conflict of interest issues arising from three investments – the Laufer 1 investment, the SCF Fund and the Avenir Notes.

Laufer 1

- 2.12. GIML commenced a business relationship with Greensill in 2014, pursuant to which it invested customers’ monies in GIML-managed funds in Greensill originated assets.
- 2.13. In October 2016, GIML-managed funds financed an entity owned by Greensill, Laufer Limited (“Laufer”), using approximately £110 million of customers’ monies in GIML-managed funds (the “Laufer 1” investment). The investment manager at

GIML with responsibility for making the investment into Laufer 1 also managed the day-to-day relationship between GIML and Greensill (“Investment Director A”).

2.14. The Laufer 1 investment created a conflict between the interests of GIML and its customers as GIML may have been incentivised to financially assist its business partner Greensill rather than necessarily act in the best interests of its customers. This conflict was exacerbated by Greensill offering, unsolicited, three potential incentives to GIML in connection with the GAM and Greensill business relationship, which raised conflict of interest issues between GIML and its clients. These comprised: a ‘fee ramp’ (guaranteeing the amounts GIML would earn from its management of specific supply chain finance funds); an ‘equity warrant’ over Greensill shares; and a ‘first and last look’ arrangement (which allowed GIML the first opportunity to launch further funds investing in Greensill originated assets). These potential incentives would have provided benefits to GIML or its parent company in return for investing customers’ monies into Laufer 1. These represented clear and serious conflict of interest issues but none of them were ultimately taken up by GIML.

2.15. However, GIML failed to manage fairly the conflict of interest issues as:

2.15.1. GIML failed to conduct any documented processes to consider the conflict of interest issues and thereby to ensure that the Laufer 1 investment was in the best interests of its customers.

2.15.2. GIML failed to disclose the conflict of interest issues to its customers.

2.15.3. Contrary to the COI Policies, the Laufer 1 investment was not escalated to the COI Officer, the COI Committee, the GIML Board of Directors or Compliance for consideration of the conflict of interest issues.

2.16. In addition, the due diligence carried out was not documented and did not extend to a recorded credit analysis of the financial positions of Laufer, Greensill and the Greensill Group.

SCF Fund

2.17. The SCF Fund was a co-branded fund launched by GIML and Greensill in June 2016 with two share classes (the A and B classes). Investment Director A was

both a co-portfolio manager of the SCF Fund and managed the relationship between GIML and Greensill.

- 2.18. A further class of the SCF Fund, the C class, was launched in July 2017 for the benefit of a customer, Company B. GIML used approximately £423 million of customers' monies in GIML-managed funds as the initial purchasers of asset backed securities linked to Company B's receivables with the intention that it would deliver a financial return to those clients. The C class subsequently purchased these securities from the initial purchasers ("B Cross Trades"). This comprised 'cross trading' and was identified within the COI Policies as a category of activity which could lead to a conflict of interest between customers. The B Cross Trades presented a potential conflict for GIML between the interests of one of its clients, Company B, and its other clients.
- 2.19. In the circumstances of this arrangement, greater consideration should have been given as to whether this matter should have been escalated in accordance with the COI Policies. The Authority considers that it should have been. Contrary to the COI Policies, the potential conflict of interest was not escalated to the COI Committee, the COI Officer, the GIML Board of Directors, Compliance or to Investment Director A's line manager.
- 2.20. In addition, GIML failed to verify that all of the B Cross Trades were:
- 2.20.1. in compliance with the Cross Trade Policy and delivered a financial benefit to the initial purchaser; and
 - 2.20.2. correctly tagged on GAM's order management system and that an adequate rationale for the B Cross Trades was recorded on this system.
- 2.21. Loss was suffered in 19 trades because there was a failure to apply the correct price: the prices used were stale prices being ones from earlier trading days. The cumulative loss was USD 26,181 for which GIML compensated the relevant funds in full.

Avenir Notes

- 2.22. In March 2017, GIML invested approximately £18,282,456 of customers' monies in GIML-managed funds in the Avenir Notes. This investment was agreed for settlement on 25 April 2017. The Avenir Notes was a product which aimed to profit from arbitrage in the credit market and one for which GAM was to be named the 'arranger'. GIML's investment of customers' monies into a product for which it was

to be named the arranger gave rise to the first conflict of interest in respect of the Avenir Notes. GIML was not separately remunerated for its role as arranger. GIML took on the role of arranger in this context for the purpose of facilitating the investment by its clients.

2.23. Investment Director B was a GIML fund manager who was involved in GIML's trading decisions in respect of the Avenir Notes. Just a few days after the investment by GIML-managed funds in the Avenir Notes, Investment Director B was authorised by Compliance to personally invest EUR 200,000 in the structure of the Avenir investment, following an assessment by Compliance that there was no conflict of interest. This assessment was inadequate and failed to identify the risk that the investment by GIML-managed funds in the Avenir Notes could be influenced by Investment Director B's personal financial interests. Investment Director B's investment gave rise to the second conflict of interest in respect of the Avenir Notes.

2.24. However, GIML failed to manage fairly both conflicts of interest as:

2.24.1. The COI Committee and the GIML Board of Directors failed to consider the first conflict of interest. GIML failed to identify the second conflict of interest when considering and approving Investment Director B's request in March 2017 to invest in the structure of the Avenir investment.

2.24.2. Both conflicts of interest were not identified in a timely fashion by GIML as they were first identified after the investment by GIML-managed funds in the Avenir Notes.

2.24.3. Upon being identified, the second conflict of interest was not considered or managed expeditiously. It was first considered by the COI Committee in March 2018 (one year after the investment by GIML-managed funds in the Avenir Notes) and by the GAM (UK) Limited Board of Directors on 21 May 2018.

2.25. The Avenir Notes were subsequently disposed of in July 2019, over two years after the investment by GIML-managed funds in the Avenir Notes. This disposal resulted in a cumulative investment loss to GIML-managed funds of EUR 1,445,302, as the Avenir Notes were sold for less than their purchase price.

2.26. In light of the matters set out at paragraphs 2.12 to 2.25, GIML failed to adequately control the conflicts of interest issues arising out of three investments during the Relevant Period 2. Accordingly, GIML breached Principle 8.

- 2.27. GIML has cooperated fully with the Authority's investigation into these matters.
- 2.28. The Authority therefore has decided to impose a financial penalty on GIML of £9,103,523 pursuant to section 206 of the Act for breaches of Principles for Businesses 2 and 8.
- 2.29. GIML agreed to resolve this matter and qualified for a 30% (Stage 1) discount under the Authority's executive settlement procedures. Were it not for this discount the Authority would have imposed a financial penalty of £13,005,033 in respect of these breaches.

3. DEFINITIONS

- 3.1. The definitions below are used in this Notice:

"the Act" means the Financial Services and Markets Act 2000;

"the Authority" means the body corporate previously known as the Financial Services Authority and renamed on 1 April 2013 as the Financial Conduct Authority;

"the COI Committee" means the Conflicts of Interest Committee, a GAM (UK) Limited committee established by a resolution of the GAM (UK) Limited Board of Directors on 6 December 2012;

"the COI Policy 1" means the UK Conflicts of Interest Policy in force at GAM (UK) Limited, GAM International Management Limited, GAM London Limited and GAM Sterling Management Limited from 1 February 2013 and updated on 21 May 2014;

"the COI Policy 2" means the UK Conflicts of Interest Policy in force at GAM (UK) Limited, GAM International Management Limited, GAM London Limited and GAM Sterling Management Limited from 1 February 2013 and updated on 25 February 2016;

"the COI Policy 3" means the UK Conflicts of Interest Policy in force at GAM (UK) Limited, GAM International Management Limited, GAM London Limited and GAM Sterling Management Limited from 1 February 2013 and updated on 10 February 2017;

"COI Policies" means the Conflict of Interest Policies 1, 2 and 3;

"Compliance" means the Compliance function of GAM UK Group;

"GAM" means the companies within the GAM Group;

"GAM UK Group" means GAM (UK) Limited and its subsidiaries, GAM International Management Limited, GAM London Limited and GAM Sterling Management Limited;

"GIML" means GAM International Management Limited;

"Greensill" means Greensill Capital (UK) Ltd;

"the Relevant Period 1" means the period from 28 November 2014 to 25 October 2017;

"the Relevant Period 2" means the period from 20 October 2016 to 8 March 2018;

"the Relevant Periods" means both Relevant Period 1 and Relevant Period 2, together the period from 28 November 2014 to 8 March 2018; and

"the Tribunal" means the Upper Tribunal (Tax and Chancery Chamber).

4. FACTS AND MATTERS

Background to GIML

- 4.1. GIML is a London based asset management firm. It is a subsidiary of GAM (UK) Limited which is a UK subsidiary of GAM Holding AG. Since 1 December 2001, GIML has been authorised by the Authority to carry out specified regulated activities. As of 30 June 2018, GIML managed approximately £43.7 billion of assets.
- 4.2. During the Relevant Periods, GAM had a number of in-house investment teams, each headed by an individual who reported to the Group CEO. Each head was also an active investor and described by GAM as having "*the freedom to invest without having to conform to a single 'house style' and to follow his or her own, individual investment philosophy and process*". The investment teams were organised in accordance with the investment strategies pursued and the types of assets in which they specialised.
- 4.3. The fixed income investment teams were based in London, New York and Zurich. The Absolute Return and Long Only team (the "ARLO Team"), was a fixed income team which operated in London and New York during the Relevant Periods.

- 4.4. The ARLO Team managed multiple funds or mandates in which GIML was either the investment manager or delegated investment manager. As at 30 June 2018, the ARLO Team had approximately £8.4 billion of assets under management.
- 4.5. The ARLO Team was heavily comprised of senior members of staff, including a number of Investment Directors and Investment Managers. Investment Directors were either the head of an investment team or a very senior member of that team. Investment Managers were just below Investment Directors in seniority.
- 4.6. Investment Director A was the head of the ARLO Team. He was a director of the Board of GIML and held the CF1 (director) controlled function in the period 7 August 2012 to 31 July 2018. Investment Director A held no management positions in any other part of GAM.
- 4.7. Investment Director A was the designated co-investment manager for a substantial number of the funds and mandates managed by the ARLO Team during the Relevant Periods. Each fund or mandate, typically, had at least two Investment Directors as co-investment managers. As co-investment manager, Investment Director A managed the inflows and outflows to and from those funds and mandates and managed the money committed to them by customers. He was also responsible for assisting in the marketing and client servicing of those funds and mandates.

Governance and control structures at GIML

- 4.8. Investment Directors and Investment Managers were given autonomy to identify and undertake investments within their specialism, with GAM documentation stating that:

"investment managers enjoy a high degree of autonomy, which goes hand in hand with full responsibility for investment performance."

- 4.9. The heads of the investment teams, including Investment Director A as head of the ARLO Team, reported directly to the GAM CEO who was their line manager. The heads of the investment teams did not report to the GAM CEO in respect of investment or portfolio decisions. Accordingly, the GAM CEO did not make or oversee investment decisions for the investment teams.
- 4.10. By November 2017, the heads of the investment teams informally reported to the GAM head of investments, with their contractual reporting line remaining with the GAM CEO.

- 4.11. During the Relevant Periods, GIML did not have a documented procedure in respect of decisions to invest or the approval and operational processes used to enter an investment into its systems.
- 4.12. Further, GIML did not have a documented policy or guidance setting out the nature or extent of due diligence that should be conducted before an investment was undertaken. Instead, this was left to the discretion of individuals at GIML.
- 4.13. Once an asset or potential investment had been identified, the details pertaining to it would be entered into GAM's order management system. In order to execute the transaction, a series of stages had to be completed on the order management system. This included the passing of automated checks to identify whether the proposed investment was in breach of any pre-coded compliance rules. The pre-coded rules were inputted by Compliance and aimed at identifying whether a proposed investment was in breach of fund or mandate restrictions.
- 4.14. In addition to the pre-trade automated checks conducted on GAM's order management system, in instances in which there were concerns as to whether the risk limits of funds or mandates may be exceeded, liaison with the GAM Risk team was required to ensure that the proposed investment did not present concerns.
- 4.15. As a matter of course, investment restriction compliance monitoring was also undertaken across all GAM funds and mandates, including GIML-managed funds and mandates, on a post investment basis to ensure that relevant investments were compliant with the pre-coded investment restrictions entered on the order management system. These checks were conducted two days after the trade date.
- 4.16. Throughout the Relevant Periods, GIML analysed investment risk in relation to all GAM funds mandates. It would analyse market exposure of fund/mandates, perform value at risk calculations and market risk stress testing.
- 4.17. Notwithstanding the pre-trade and post trade systems and controls outlined above, during the Relevant Periods, GIML did not, as a matter of course, consider or monitor aggregated financial exposure across portfolios or investment funds to investments arranged by the same counterparty (although GIML did monitor aggregated financial exposure to specific obligors). The order management system did not have a dedicated section or facility to record conflicts of interest.

Conflict of interest framework at GIML

- 4.18. Between June 2011 and February 2012, the Authority conducted thematic reviews of asset management firms, assessing their arrangements for managing conflicts of interest. These reviews were prompted by evidence that some asset management firms had relaxed their systems and controls and did not perceive conflicts of interest to be a key source of potential customer detriment.
- 4.19. The Authority published its findings in a paper dated November 2012, entitled 'Conflicts of interest between asset managers and their customers: Identifying and mitigating the risks' ("the Paper"). The Paper stressed the importance of asset management firms having adequate policies and procedures to manage conflicts of interest. It stated that:
- "Policies to properly manage conflicts of interest mean customers avoid unnecessary costs and have fair access to all suitable investment opportunities. Properly managing conflicts improves the returns earned by customers and enhances general confidence in the UK asset management industry."*
- 4.20. The Paper further stated that it required the board of directors of each asset management firm to discuss its contents and for each firm's CEO to provide a written attestation by 28 February 2013 as to the sufficiency of the firm's conflicts of interest policies and procedures.
- 4.21. On 28 February 2013, GAM provided the Authority with a written attestation stating that the Board of Directors of GIML and other GAM entities had received a copy of the Paper and considered that GAM's arrangements were sufficient to ensure that it managed conflicts of interest effectively and in compliance with the Authority's Rules.
- 4.22. During the Relevant Period 1, GIML had various systems and controls in place in order to identify, manage and review conflicts of interest as set out in paragraphs 4.23 to 4.44 below. There were deficiencies in the implementation of these policies and procedures, as detailed below.

Conflicts of Interest Policies

- 4.23. There were three conflict of interest policies in operation at GIML during the Relevant Period 1 ("COI Policies"). The COI Policies applied to all those that worked at GIML as well as all the other entities in GAM UK Group. The COI Policies

formed part of the GAM compliance manual which all GIML employees were required to read.

4.24. During the Relevant Period 1, whilst there was some reference to conflicts of interest in employee induction materials and general training, no specific training was provided to staff purely on the subject of conflicts of interest. As a result, there was a risk that employees' understanding of conflicts of interest varied.

4.25. The COI Policies specified that GAM UK Group was reliant on employees to exercise sound judgement, seek advice where appropriate and disclose activities that were considered to constitute or potentially constitute a conflict of interest. The COI Policies included:

4.25.1. Examples of the types of circumstances in which conflicts of interest may arise. This included conflicts of interest arising from personal account dealing or the receipt and giving of gifts and entertainment. The COI Policies also included reference to conflicts potentially arising between a firm and its clients, but there was limited specificity as to the types of situations in which such conflicts could arise.

4.25.2. The procedure to be followed to address conflicts of interest.

4.25.3. The responsibilities of individuals and bodies tasked with assisting in the management of conflicts. They consisted principally of the Boards of Directors of each of the companies within GAM UK Group, the Conflicts of Interest Committee ("COI Committee"), the Conflicts of Interest Officer ("COI Officer") and Compliance. They all formed part of the conflicts of interest framework at GIML and are addressed in further detail at paragraphs 4.26 to 4.44 below.

The Boards of Directors of the companies within GAM UK Group

4.26. The COI Policies set out the responsibilities of the Boards of Directors of each of the companies within GAM UK Group, including GIML, during the Relevant Period 1, including:

4.26.1. Establishing effective frameworks to identify, control and review conflicts of interest.

- 4.26.2. Setting the appropriate tone and overseeing the implementation of the conflicts of interest framework, including overseeing the identification and management of conflicts of interest within the GAM UK Group.
- 4.26.3. Reviewing and discussing conflicts of interest that have arisen.
- 4.26.4. Reviewing the COI Policies.
- 4.27. The Boards of Directors of the companies within GAM UK Group were also responsible for ensuring that conflicts of interest procedures were compliant with regulatory standards.
- 4.28. During the Relevant Period 1, conflicts of interest were discussed at some GIML board meetings. However, and despite the specific obligation contained within the COI Policies to do so, the COI Policies were not reviewed by the GIML Board of Directors during the Relevant Period 1.

Conflicts of Interest Committee

- 4.29. The COI Committee was established by a resolution of the GAM (UK) Limited Board of Directors on 6 December 2012.
- 4.30. Its purpose was to, amongst other things:
 - 4.30.1. Annually review the operations of GAM UK Group to identify any potential new conflicts of interest.
 - 4.30.2. Perform an ongoing analysis of policies which addressed conflicts of interest, including the COI Policies.
 - 4.30.3. Upon request, support the COI Officer in assessing conflict of interest disclosures and determining whether and how a conflict may be managed.
 - 4.30.4. Address any conflict of interest issues the Boards of Directors of the companies within GAM UK Group consider are not being dealt with adequately by existing policies.
- 4.31. The terms of reference stated that the COI Committee should meet at least twice annually and at such other times as may be required. Contrary to this, the COI Committee did not meet for a period of approximately three years between

November 2014 and October 2017. During this period, it did not fulfil its purpose as set out at paragraph 4.30 above.

- 4.32. For much of the Relevant Period 1, the COI Committee, chaired by the COI Officer, was comprised principally of support function staff, largely from Compliance at GAM. It did not have first line senior representation.
- 4.33. During the Relevant Period 1, the role of the COI Committee was not promoted to GIML employees, leading to a lack of awareness of its role. This is reflected in the absence of referrals to the COI Committee during the three year period in which it failed to meet. This failure to meet was significant as the COI Committee was identified within the COI Policies as an important body in the management and addressing of conflicts of interest.

Conflicts of Interest Officer

- 4.34. The COI Officer had two principal functions:
 - 4.34.1. To act as the main initial escalation point for a UK employee of a known or suspected conflict of interest.
 - 4.34.2. To report to the Board of Directors of GAM (UK) Limited on conflict of interest issues.
- 4.35. Similarly to the COI Committee, GIML staff were generally unaware of the role and identity of the COI Officer. This lack of awareness potentially impeded employees' capacity to escalate conflict of interest issues directly to the COI Officer.
- 4.36. As an alternative to raising conflicts of interest with the COI Officer, the COI Policies envisaged that employees could raise potential or actual conflicts with their line manager.

Conflicts of Interest Log, Matrix and Register

- 4.37. The Conflicts of Interest Log was a list of potential conflicts of interest managed by GIML. It was created to ensure that potential conflicts of interest were adequately considered and managed. During the Relevant Period 1, a Conflicts of Interest Matrix was created, which more comprehensively set out the nature of potential conflicts of interests that may be encountered by GIML, along with a summary of the relevant controls in place to address such conflicts and details as to who the owner of these controls were. Whilst the Conflicts of Interest Log and

the Conflicts of Interest Matrix did address personal account dealing, and the Conflicts of Interest Log did address cross trades, the Conflicts of Interest Log and the Conflicts of Interest Matrix did not address the other conflicts of interest that are the subject matter of this Notice.

- 4.38. Compliance at GIML maintained two registers recording potential conflicts of interest in respect of employees; one in relation to employees' personal relationships and the other in relation to external directorships held by employees. The registers did not record corporate conflicts arising from business relationships.

Regulatory compliance software platform

- 4.39. GAM used a specific regulatory compliance software platform as one of the primary systems and controls to identify and manage conflicts of interest.
- 4.40. During the Relevant Period 1, employees were able to log compliance information, including any actual or potential breaches of the COI Policies, directly into this platform, thus enabling the information to be reviewed by Compliance.

Role of Compliance function

- 4.41. Compliance was responsible for dealing with breaches of the COI Policies.
- 4.42. Notwithstanding the requirement in the COI Policies that actual or potential conflicts of interest be escalated to the COI Officer, in practice such matters were instead typically escalated to Compliance during the Relevant Period 1.
- 4.43. As part of its monitoring plan, Compliance carried out an annual review of the COI Policies and the Conflicts of Interest Matrix. However, during the Relevant Period 1 Compliance failed to identify significant deficiencies in the implementation of the conflicts of interest framework such as the failure of the COI Committee to meet for three years and the lack of awareness amongst GIML staff of the COI Officer.

Internal Audit

- 4.44. GIML internal documentation identified the three lines of defence model as a control to identify and manage conflicts of interest matters, with internal audit forming the third line of defence. One internal audit report on conflicts of interest, applicable to GIML, was produced during the Relevant Period 1, in May 2015. This report declared that GAM's systems and controls were either good or satisfactory.

Application of Conflict of Interest framework to specific transactions

GIML relationship with Greensill

- 4.45. Greensill is a wholly owned subsidiary of Greensill Capital Pty Limited, an Australian incorporated company ("Greensill Pty"). Greensill offers companies a range of finance solutions including supply chain finance ("SCF").
- 4.46. SCF is a form of short-term credit provided to corporate buyers of goods and services. The SCF provider purchases receivables (debts owed for goods or services that have been delivered or used but not paid for) owed by a corporate buyer ("obligor") at a discount from the obligor's supplier(s). The provider then collects the full value of the receivables from the obligor at a later date.
- 4.47. GIML's relationship with Greensill commenced in late November 2014, with Investment Director A subsequently becoming Greensill's principal point of contact at GIML.
- 4.48. In early October 2015, an investment structure was agreed between GIML and Greensill, such as to permit GIML access to Greensill SCF assets and for Greensill to access GAM's short-term cash balances. Consideration was given by GAM to the question of whether there were any conflicts of interest between GAM and Greensill that needed to be managed or addressed prior to this arrangement being entered into. Investment Director A disclosed his own personal relationship with a senior member of the Greensill Board. GAM considered this matter and concluded that it did not require any further action prior to the signing of the joint venture agreement.
- 4.49. Pursuant to this agreement, Investment Director A, on behalf of GIML, began investing in Greensill originated SCF assets. On or around 22 October 2015, GIML invested in Greensill originated SCF assets on behalf of certain sub-funds of the GAM Absolute Return Bond Funds, which was a fund managed by GIML.
- 4.50. In June 2016, GAM and Greensill launched the co-branded GAM Greensill Supply Chain Finance Fund ("SCF Fund"). GAM appointed GIML as the investment manager for the SCF Fund. The decision to launch the fund was taken by GAM. GAM was aware that the GAM Absolute Return Bond Funds, under the management of Investment Director A, were investing in Greensill originated assets. Investment Director A was a designated co-investment manager for the SCF Fund and was listed as a member of key personnel in promotional documentation. GIML's conflicts of interest framework was not engaged in order

to consider whether Investment Director A's multiple roles presented a conflict of interest.

- 4.51. By September 2016, GIML-managed funds had invested USD 18,000,000 in Greensill originated assets.
- 4.52. During the Relevant Periods, 21 GIML-managed funds and mandates invested directly or indirectly in Greensill originated assets. This included the GAM Multibond fund and its sub funds, the GAM Absolute Return Bond Master Fund and the GAM Greensill Supply Chain Finance Plus fund.
- 4.53. Towards the end of the Relevant Period 2, as of 24 January 2018, GAM's total exposure to Greensill originated assets was in the sum of approximately £1.53 billion. No Greensill-related assets defaulted on any payment of interest or capital to GIML-managed funds during the Relevant Periods.

Laufer 1 Investment

- 4.54. On 20 October 2016, GIML-managed funds bought a series of 1-year notes issued by Laufer Limited ("Laufer"), a 100% owned subsidiary of Greensill Pty. This investment ("Laufer 1") was distinguishable from previous investments in Greensill originated assets in that it provided direct financing to a Greensill owned entity.
- 4.55. The initial Laufer 1 investment consisted of a purchase of four EUR denominated notes for a total of EUR 46,770,554 and five USD denominated notes for a total of USD 84,006,665. Prior to the Laufer 1 investment, GAM had already invested approximately £43.4 million in Greensill originated assets. Following this investment, as at 20 October 2016, GAM had invested a net amount of approximately £153.7 million in Greensill originated assets.
- 4.56. The Laufer 1 notes purchased in October 2016 all matured and were redeemed in October 2017 and then 'rolled over' into eight new EUR denominated notes and six new USD denominated notes (with similar yields). One of the notes was sold on 23 January 2018. The remaining notes were then sold on 25 July 2018.
- 4.57. In March 2017, five Laufer 1 notes totalling USD 56 million were purchased by GIML funds with a yield of around 5.58% to 5.63%, although these trades had different maturity dates, all of more than one year, that ranged between September 2017 and March 2021. One of these notes matured and was redeemed (with no 'roll over') in September 2017. One of these notes matured and was

redeemed (with no 'roll over') in March 2018. The remaining notes were then sold on 25 July 2018.

- 4.58. Three further notes were purchased between 22 and 24 March 2017 totalling USD 177,187,500 and all were sold on 1 June 2017. On 3 November 2017, a note of USD 10,766,699 was purchased and was then sold on 25 July 2018.
- 4.59. Investment Director A was the fund manager with responsibility for the investment into Laufer 1 and managed the negotiations and investment decisions in regards to it. Investment Director A also managed the ongoing day-to-day relationship between GIML and Greensill during the Relevant Periods.
- 4.60. The provision of financing to a Greensill-owned entity (Laufer) created a conflict of interest for GIML, in light of GAM's broader relationship with Greensill. The investment by GIML-managed client funds in Laufer 1 had the effect of directly refinancing Greensill's debts, and on more favourable terms. It was therefore financially beneficial to Greensill, reducing Greensill's interest payments on its debts from 10% to approximately 5%. This created a conflict of interest between the interests of GIML and those of the clients who held assets in those funds investing in Laufer 1, on the basis that GIML was also in a pre-existing joint venture business relationship with Greensill. In light of this, reduced debt costs for Greensill was potentially of benefit to GIML.
- 4.61. As a result of there being a potential benefit to GIML itself in supporting the financial health of Greensill, there was an incentive for GIML to invest its clients' funds in Laufer 1 for its own benefit, rather than necessarily for the benefit of its clients.
- 4.62. In light of the above, the Laufer 1 investment created a conflict of interest between GIML and its clients that needed to be appropriately managed. This was not done, as described below:
 - 4.62.1. GIML failed to conduct any documented processes to consider the conflict of interest and thereby ensure that the investment was in the best interests of its clients.
 - 4.62.2. GIML did not disclose the conflict of interest to clients.
 - 4.62.3. The Laufer 1 investment was not escalated to the COI Officer, the COI Committee, the GIML Board of Directors or Compliance for consideration of a conflict of interest.

- 4.63. Further, the due diligence carried out by GIML in respect of the Laufer 1 investment consisted principally of an undocumented consideration of Greensill's management accounts and Investment Director A's experience of working with Greensill and their knowledge of the business and how it was developing. There was no documented guidance or rule at GAM as to the level of due diligence that was required prior to purchase and it was left to the fund manager to determine what was appropriate. There was no procedure at GAM that required a recorded credit analysis to be prepared. GIML did not prepare a recorded analysis of the financial positions of Laufer, Greensill or the Greensill Group.
- 4.64. In addition to the above, there were a number of further aspects to the Laufer 1 transaction which gave rise to further conflict of interest issues. These are set out below.

Fee Ramp

- 4.65. During 2016, and before and after the investment in Laufer 1, GAM Senior Management had expressed their disappointment to Investment Director A at the rate of growth of assets under management of the co-branded SCF Funds.
- 4.66. During the course of the discussions between Investment Director A and Greensill, leading up to the Laufer 1 investment, a draft Laufer term sheet, dated 14 October 2016, made reference to a 'fee ramp' arrangement. It stated as follows:
- "where the total assets under management of "Vodafund" [a SCF fund co-branded between GAM and Greensill] and any similar fund managed by GIML is less than US\$1 billion on 31 March 2017, [Greensill] will pay an annual fee of US\$1.25MM (payable quarterly in arrears in instalments of \$312,500) as an additional asset management fee for each of the next 4 years."*
- 4.67. This unsolicited proposed fee ramp arrangement offered by Greensill created a conflict of interest between GIML and its clients, as the arrangement was stated to be for the benefit of GIML and not its clients. This led to a risk that GIML may have been incentivised to invest client funds in the Laufer notes to serve its own interests as opposed to that of its clients.
- 4.68. On 20 October 2016, the same day as the GIML-managed funds invested into Laufer 1, Investment Director A received an email from a representative of Greensill, attaching various documents including a Laufer Commitment letter (the "Commitment Letter"), a legal opinion concerning the Laufer 1 transaction and a letter dated 20 October 2016 ("Fee Ramp Letter 1"). Fee Ramp Letter 1, similarly

to the draft term sheet referenced above, set out an undertaking by Greensill to pay additional annual fees to GIML if the assets under management in one of the SCF Funds did not reach USD 1 billion on 31 March 2017. This was expressed to be in consideration for GIML arranging the purchase of Laufer notes. This letter was signed by a representative of Greensill but not countersigned by GIML. After the Laufer 1 investment was made, Investment Director A objected to the terms of the letter, since it, in their view, incorrectly stated that the fee ramp was in consideration of the Laufer 1 investment.

- 4.69. Accordingly, on 25 October 2016, 5 days after the Laufer 1 investment by GIML funds had been executed, a revised Fee Ramp letter ("Fee Ramp Letter 2") was sent by Greensill to GIML which removed wording stating that the potential fee ramp payments were in consideration of the GIML investment in Laufer. This letter was to replace Fee Ramp Letter 1.
- 4.70. On 8 June 2017, both Investment Director A and Greensill signed a fee ramp letter ("Signed Fee Ramp Letter") which stated that the terms of the fee ramp arrangement were amended from those expressed in Fee Ramp Letter 1, so that Greensill would pay additional annual fees to GIML if the assets under management in one of the SCF funds did not reach USD 1 billion by 30 September 2017 as opposed to by 31 March 2017. No other terms within Fee Ramp Letter 1 were amended in Signed Fee Ramp Letter and Fee Ramp Letter 2 was not referred to. Accordingly, the fee ramp arrangement in Signed Fee Ramp Letter was expressed to be in consideration for the GIML purchase of Laufer notes. This was later identified as an administrative error as Fee Ramp Letter 2 was to replace Fee Ramp Letter 1.
- 4.71. In light of the above communications before and after the Laufer 1 investment was made on 20 October 2016, there was a lack of clarity in the documentation about whether the fee ramp was in consideration of Laufer 1. This created a conflict of interest. This failure to clarify was compounded in June 2017, with Signed Fee Ramp Letter making reference to Fee Ramp Letter 1, as detailed in paragraph 4.70 above.
- 4.72. In light of the above, the Laufer 1 transaction should have been escalated for consideration as to whether the fee ramp arrangement created a conflict of interest. Despite this, the matter was not referred to the GIML Board of Directors, Compliance, the COI Committee or the COI Officer for consideration. The Laufer 1 transaction subsequently proceeded on 20 October 2016.

Option to Purchase Equity Warrant

- 4.73. An equity warrant is a financial instrument under which a company grants a contractual right (but not an obligation) to a third party to subscribe for a specified class of shares in that company.
- 4.74. On 14 October 2016, a representative of Greensill provided Investment Director A with a draft term sheet, which presented an offer of an option to purchase an equity warrant over Greensill shares. The draft term sheet also included the following wording: *"Prior [to] 31 March 2018 if [GIML] or one of the funds under its management pays an exercise fee of USD\$15MM to the Company, the Company will grant a warrant"*.
- 4.75. On 20 October 2016, Investment Director A was told by a representative of Greensill that its shareholders had consented to the issue of an equity warrant to GIML and that Greensill was accordingly authorised to issue the equity warrant to GIML in exchange for the USD 15 million exercise fee at any time before 31 March 2018.
- 4.76. The option to purchase the equity warrant appeared to be of benefit to GIML itself; the funds managed by GIML and which invested into Laufer 1 would not have benefited from the ability to make an equity investment. In the event that the option to purchase the equity warrant formed part of or was a condition of the investment by GIML-managed funds in the Laufer 1 notes, it would have created a conflict of interest between GIML and its clients as it led to the risk that GIML may have been incentivised to invest client funds in the Laufer 1 notes in order to serve its own interests as opposed to that of its investing clients.
- 4.77. The option to purchase the equity warrant was not referred to in the Commitment Letter, however both the draft term sheet (referred to at paragraph 4.74 above) and a shareholder consent document linked the equity warrant to Laufer 1. The lack of clarity in the documentation about whether the equity warrant formed a part of or was a condition of the Laufer 1 investment created a conflict of interest. In light of this, the Laufer 1 transactions should have been escalated for consideration as to whether the equity warrant created a conflict of interest. Despite this, it was not escalated to the Board of the Directors, Compliance, the COI Committee or the COI Officer for consideration. No payment was ever made to purchase the equity warrant.

First and Last Look Provision

- 4.78. The draft term sheet for Laufer 1, dated 14 October 2016, made reference to a first and last look arrangement, giving GAM the right to match any other proposal to launch another SCF fund (of a type similar to the 'Vodafund'). It stated as follows:

"For so long as any Note remains outstanding GAM shall have the right to first look and propose and last look to match (both in terms of economics and other benefits) any proposal (i) to establish a third party fund of the nature of "Vodafund"; and (ii) to make a primary equity investment in the Company where the amount sought to be raised is \$50MM or more."

- 4.79. In the event that the first and last look provision formed part of or was a condition of the investment by GIML-managed funds in the Laufer 1 notes, it would have created a conflict of interest between GIML and its clients. This provision was for the benefit of GIML as opposed to its clients and may have encouraged GIML to invest client funds in the Laufer notes to further GIML's interests as opposed to that of its clients.

- 4.80. The first and last look provision was not reflected in the Commitment Letter or the 'Laufer closing' email on 20 October 2016. However:

4.80.1. it was referred to in the draft Laufer term sheet.

4.80.2. The lack of clarity in the documentation about whether the first and last look provision formed part of or was a condition of the Laufer 1 investment had created a potential conflict of interest.

- 4.81. In light of the above, the Laufer 1 transactions should have been escalated for consideration as to whether the first and last look provision created a conflict of interest. Despite this, it was not escalated to the GIML Board of Directors, Compliance, the COI Committee or the COI Officer for consideration, and GIML failed to conduct any documented processes to consider the conflict of interest.

C class of the SCF Fund

- 4.82. The SCF Fund was a co-branded fund launched by GAM and Greensill in June 2016. It was structured as a Luxembourg special limited partnership and qualified as an Alternative Investment Fund under the Alternative Investment Fund Managers Directive.

- 4.83. At the time of the launch of the SCF Fund, in June 2016, it consisted of two share classes, the A class and the B class. The A class consisted of voting shares and was entirely owned by Greensill. The B class consisted of non-voting shares and was for ordinary investors in the fund. Within the B class, there were separate currency-based subclasses (known as "sleeves") for EUR, USD, AUD and GBP.
- 4.84. Investment Director A was instrumental in the setting up of the SCF Fund and its subsequent operation. He was the co-portfolio manager for the SCF Fund, was the principal point of contact for Greensill at GIML during the Relevant Periods and was listed in promotional documentation for the SCF Fund as a member of key personnel for the fund.
- 4.85. On 11 July 2017, a further class of the SCF Fund, the C class, was formally launched. In the period between the initial launch of the SCF Fund in June 2016 and the launch of the C class of the SCF Fund in July 2017, GIML undertook investments in six different Greensill originated assets. At the time of the launch of the C class of the SCF Fund, GIML had a close business relationship with Greensill to the extent that GIML's net investment in Greensill originated assets was £758.1 million.
- 4.86. The C class was created in part to enable a Swiss based company, Company B, to invest in the SCF Fund. As a condition of its participation in the SCF Fund, Company B stipulated that it would only invest in its own receivables as it did not wish to be exposed to third party credit risk. In order to accommodate this, the C class was designed to invest exclusively in notes backed by Company B's receivables ("Company B's Receivables"), subject to each of these receivables being insured, with Company B as the end investor.
- 4.87. The C class consisted of a single sleeve of USD denominated non-voting shares. It was initially populated through the use of cross trades, which were defined within GAM policy documentation as inter-fund transfers.
- 4.88. Between July and November 2017, the C class of the SCF Fund acquired approximately USD 1.2 billion of Company B's Receivables. Approximately half of these receivables were procured for the C class through cross trades involving GIML-managed funds and the B class of the SCF Fund. More specifically, between 12 July and 31 August 2017, approximately USD 552 million of Company B's Receivables were initially purchased by a combination of the GBP and USD sleeves of the B class of the SCF Fund, the GAM Greensill Supply Chain Finance Plus Fund and the GAM Absolute Return Bond Master Fund. The C class purchased Company

B's Receivables from these initial purchasers, typically one or two days later ("B Cross Trades").

- 4.89. Investment Director A, another member of the ARLO Team and members of the operations and product approval teams were aware of and involved in the B Cross Trades.
- 4.90. Cross trading was identified within the COI Policies as a category of activity which could lead to a conflict of interest.
- 4.91. During the Relevant Period 2, GAM had a cross trade policy (the "Cross Trade Policy") in operation. It set out a number of conditions for the use of cross trades. These conditions were directed at ensuring that the interests of the purchasing and selling funds were both served, thus avoiding conflicts of interest. The Cross Trade Policy stated that *"Inter-fund transfers should only be used where no fund would be disadvantaged, the trade is in the best interests of all funds concerned and consistent with best execution and the investment policies of each respective fund"*. Further, in relation to Fixed Income Funds, the Cross Trade Policy stated that *"the rationale for the trade should be recorded in [GAM's order management system] and the reason tag should be completed to identify 'crossing securities between customers'"*.
- 4.92. The C class operated for the benefit of Company B through, at times, the usage of funds managed on behalf of other GIML clients as the initial purchasers. Whilst this was done with the intention that the initial purchasers would receive a financial return, it presented a potential conflict for GIML between the interests of one of its clients, Company B, and its other clients who invested in GIML-managed funds which were used to make the initial purchases of Company B's Receivables.
- 4.93. In the circumstances of this arrangement, greater consideration should have been given as to whether this created a potential conflict of interest. The Authority considers that the potential conflict between the interests of one of GIML's clients, Company B, and other GIML clients should have been escalated. The operation of the C class of the SCF Fund was not escalated to the COI Committee, the COI Officer, the GIML Board of Directors, Compliance or to Investment Director A's line manager.
- 4.94. In addition to the above, GIML failed to verify that all of the B Cross Trades were:
 - 4.94.1. correctly tagged as cross trades on GAM's order management system and that an adequate rationale for the B Cross Trades was recorded on this

system. These steps would assist in the identification and consideration of conflicts of interest; and

- 4.94.2. in compliance with the Cross Trade Policy and delivered a financial benefit to the initial purchaser.
- 4.95. In total, there were 24 trades in which GIML-managed funds operated as the initial purchaser of Company B's Receivables before they were sold to the C class of the SCF Fund. Loss was suffered in relation to 19 of those trades, most of which concerned instances in which the B class of the SCF Fund was the initial purchaser. No GIML-managed fund which operated as the initial purchaser profited from these trades. This is because there was a failure to apply the correct price in the cross trades: the prices used were stale prices being ones from earlier trading days. The result of this was that the initial purchasing funds did not receive a benefit for holding Company B's Receivables. GIML failed to check that the prices achieved in these trades had indeed been the ones that should have been used.
- 4.96. The cumulative loss suffered by GIML-managed funds which operated as the primary purchaser in the B Cross Trades totalled USD 26,181, reflecting the interest accrued on the notes and associated hedging costs during the period for which they were held. Subsequently, these GIML managed funds were compensated in full by GIML for the losses incurred.

Avenir Notes

- 4.97. In March 2017, GIML invested in the Avenir Pass Through Notes (the "Avenir Notes"). They agreed for settlement on 25 April 2017. The Avenir Notes was a product which aimed to profit from arbitrage in the credit market and one for which GAM was to be the named 'arranger.' A Special Purpose Vehicle, called Avenir, had been created to purchase the Avenir Notes and mitigate GIML's exposure.
- 4.98. The equity holder of the Special Purpose Vehicle ("Owner A") was owned by an Investment Director at GIML ("Investment Director B") and an external individual, who had both made investments in the Avenir Structure. Investment Director B was involved in GIML's trading decisions in respect of the Avenir Notes.
- 4.99. The structure of the Avenir Notes permitted Owner A to invest equity in the SPV while GIML-managed funds purchased the bonds issued out of the Avenir Notes. Under this structure, Owner A would experience any loss arising from the investment first, with GIML-managed funds experiencing the loss thereafter.

- 4.100. GIML invested EUR 21,116,000 of GIML-managed funds in the Avenir Notes on 24 March 2017. Having received prior approval from Compliance, Investment Director B made a personal investment of EUR 200,000 in the structure of the Avenir investment. In light of Investment Director B's personal investment in the structure of the Avenir investment, there was a risk that the investment by GIML-managed funds into the Avenir Notes could be influenced by Investment Director B's personal financial interests. This created a conflict of interest between a GIML employee, Investment Director B, and GIML's clients. However, in its approval, Compliance erroneously noted that it was comfortable that there was no conflict of interest.
- 4.101. There were two conflicts of interest arising from the Avenir Notes – firstly, in relation to GIML's investment of client funds into a product it was to be named the arranger of; and secondly, in relation to Investment Director B's personal investment in the structure of the Avenir investment.
- 4.102. These conflicts of interest were not identified by GIML until April 2017. Significantly, this identification did not take place until after (i) GIML had invested client funds in the Avenir Notes (ii) Compliance had approved Investment Director B's request to invest in the structure of the Avenir investment and (iii) he did in fact invest. At this late stage, a senior member of Compliance suggested that the two conflicts of interest be considered by the COI Committee.
- 4.103. However, the first conflict of interest (that in respect of GIML's investment of client funds into a product it had arranged) was not considered by the COI Committee or the GIML or GAM (UK) Limited Boards of Directors.
- 4.104. The second conflict of interest (that in respect of Investment Director B's personal investment in the structure of the Avenir investment) was first considered by the COI Committee on 8 March 2018, almost a year after Investment Director B invested in the structure of the Avenir investment. It was given consideration by the GAM (UK) Limited Board of Directors on 13 March 2018 and subsequently on 21 May 2018. At the latter meeting, the GAM (UK) Limited Board of Directors advised that consideration should be given as to ways to recover GIML's investment.
- 4.105. The Avenir investment was again raised at a meeting of the GAM (UK) Limited Board of Directors on 12 September 2018. Subsequently, the Avenir Notes were disposed of on 12 July 2019, some 14 months after the conflict of interest relating to Investment Director B was first considered by the GAM (UK) Limited Board of

Directors. The proceeds received from the disposal totalled EUR 19,720,698, reflecting a cumulative investment loss of EUR 1,445,302, as the Avenir Notes were sold for less than their purchase price.

5. FAILINGS

- 5.1. The regulatory provisions relevant to this Notice are referred to in Annex A.
- 5.2. As described in further detail below, the Authority considers that GIML breached Principles 2 and 8 of the Authority's Principles for Businesses.

Principle 2

- 5.3. Principle 2 requires a firm to conduct its business with due skill, care and diligence.
- 5.4. In breach of Principle 2, GIML failed to ensure that its conflicts of interest framework adequately identified, managed and prevented conflicts of interest during the Relevant Period 1. In particular:
 - 5.4.1. The COI Committee failed to fulfil its purpose in that it did not meet between November 2014 and October 2017.
 - 5.4.2. There was insufficient promotion of the identity and role of the COI Officer and of the role of the COI Committee.
 - 5.4.3. There was limited discussion of conflicts of interest by the GIML Board of Directors.
 - 5.4.4. Internal audit produced only one report on conflicts of interest during the Relevant Period 1, in May 2015.

Principle 8

- 5.5. Principle 8 requires a firm to manage conflicts of interest fairly, both between itself and its customers and between a customer and another client.
- 5.6. In breach of Principle 8, GIML failed to manage conflicts of interest fairly arising from the Laufer 1 investment, the C class of the SCF Fund and the Avenir Notes.

Laufer 1 investment

- 5.7. GIML's investment of client funds to finance an entity, Laufer, owned by a business partner, Greensill, presented a conflict between the interests of GIML and its clients. This presented an incentive for GIML to finance its business partner

Greensill, through investing client funds in Laufer, for its own benefit as opposed to its clients.

- 5.8. In addition, documentation received from Greensill and produced at the time of the Laufer 1 investment contained three potential incentives to GIML in connection with the GAM and Greensill business relationship. None of them were ultimately taken up by GIML, but they raised conflict of interest issues between GIML and its clients. These potential incentives were: a fee ramp (guaranteeing the amounts GIML would earn from its management of specific supply chain finance funds); an 'equity warrant' over Greensill shares; and a 'first and last look' arrangement (which allowed GIML the first opportunity to launch further Greensill funds). These three incentives may have incentivised GIML to invest in Laufer 1 for its own benefit as opposed to that of its clients, thereby each creating a conflict between the interests of GIML and its clients. The GIML investment director responsible for making the decision to invest clients' monies into Laufer 1 was also responsible for the day-to-day relationship with Greensill.
- 5.9. GIML failed to manage fairly the conflict of interest issues arising from the Laufer 1 investment in the following ways:
- 5.9.1. GIML failed to conduct any documented processes to consider the conflict of interest and thereby to ensure that the investment was in the best interests of its clients.
- 5.9.2. GIML did not disclose the conflict of interest to its clients.
- 5.9.3. The Laufer 1 investment was not escalated to the COI Officer, the COI Committee, the GIML Board of Directors or Compliance for consideration of a conflict of interest.
- 5.10. In addition, due diligence concerning the Laufer 1 investment consisted principally of an undocumented consideration of Greensill's management accounts and Investment Director A's experience of working with Greensill and their knowledge of the business and how it was developing. It did not extend to a recorded analysis of the financial positions of Laufer, Greensill or the Greensill Group.

C class of the SCF Fund

- 5.11. The C class of the SCF Fund was created for Company B. GIML-managed funds acted as the initial purchasers of Company B's Receivables with the intention that they would receive a financial return. The proceeds of these transactions were

used to subscribe to C class shares. The C class then purchased the securities from the initial purchasers. This presented a conflict for GIML between the interests of one of its clients, Company B, and its other clients.

- 5.12. In the circumstances of this arrangement, greater consideration should have been given as to whether this matter should have been escalated in accordance with the COI Policies. The Authority considers that it should have been. Contrary to the COI Policies, the potential conflict of interest was not escalated to the COI Committee, the COI Officer, the GIML Board of Directors, Compliance or to Investment Director A's line manager.
- 5.13. In addition, GIML failed to verify that all of the B Cross were:
 - 5.13.1. in compliance with the Cross Trade Policy and delivered a financial benefit to the initial purchaser; and
 - 5.13.2. correctly tagged on GAM's order management system and that an adequate rationale for the B Cross Trades was recorded on this system.
- 5.14. The cumulative loss suffered by GIML-managed funds which operated as the primary purchaser in respect of the C class of the SCF Fund totalled USD 26,181, reflecting the interest accrued on the notes and associated hedging costs during the period for which they were held. GIML compensated the relevant funds in full for the loss incurred.

Avenir Notes

- 5.15. GIML invested client funds in the Avenir Notes, a product that it had arranged. There was accordingly a conflict of interest between GIML and its clients.
- 5.16. A second conflict of interest arose on account of Investment Director B's involvement. As well as being involved in GIML's trading decisions in respect of the Avenir Notes, he held an equity interest in an SPV used to facilitate this investment. There was accordingly a risk that the investment by GIML-managed funds into the Avenir Notes could be influenced by Investment Director B's personal financial interests. This created a conflict between a GIML employee, Investment Director B, and GIML clients.
- 5.17. GIML failed to fairly manage the conflicts of interest arising from the Avenir Notes in the following ways:

- 5.17.1. GIML failed to identify the conflicts of interest prior to (i) investing client funds in the Avenir Notes, (ii) approving Investment Director B's request to personally invest in the structure of the Avenir investment and (iii) Investment Director B's investment in the structure of the Avenir investment.
 - 5.17.2. GIML approved Investment Director B's request to personally invest in the structure of the Avenir investment.
 - 5.17.3. Upon being identified in April 2017, the conflict of interest in respect of Investment Director B was not managed expeditiously as it was not (i) considered by the COI Committee until March 2018 and the GAM (UK) Limited Board of Directors until May 2018 and (ii) resolved until July 2019, when the Avenir Notes were disposed of.
 - 5.17.4. Upon being identified in April 2017, the conflict of interest in respect of GIML's investment of client funds in a product it had arranged was not considered by the COI Committee or the GIML or GAM (UK) Limited Boards of Directors.
- 5.18. Following the disposal of the Avenir Notes, a cumulative investment loss to GIML-managed funds occurred in the sum of EUR 1,445,302, as the Avenir Notes were sold for less than their purchase price.

6. SANCTION

- 6.1. The Authority's policy for imposing financial penalties is set out in Chapter 6 of the Authority's Decision Procedure & Penalties Manual ("DEPP"). In respect of conduct occurring on or after 6 March 2010, the Authority applies a five-step framework to determine the appropriate level of financial penalty. DEPP 6.5A sets out the details of the five-step framework that applies in respect of financial penalties imposed on firms.

Step 1: disgorgement

- 6.2. Pursuant to DEPP 6.5A.1G, at Step 1 the Authority seeks to deprive a firm of the financial benefit derived directly from the breach where it is practicable to quantify this.
- 6.3. The Authority has not identified any financial benefit that GIML derived directly from the breaches.

6.4. The Step 1 figure is therefore £0.

Step 2: the seriousness of the breach

6.5. Pursuant to DEPP 6.5A.2G, at Step 2, the Authority determines a figure that reflects the seriousness of the breach. Where the amount of revenue generated by a firm from a particular product line or business area is indicative of the harm or potential harm that its breach may cause, that figure will be based on a percentage of the firm's revenue from the relevant products or business area.

6.6. The Authority considers that the revenue generated by the relevant business unit at GIML, the ARLO Team, is indicative of the harm or potential harm caused by its breaches. The relevant indicator of harm is therefore £130,050,326.

6.7. In deciding on the percentage of the revenue that forms the basis of the step 2 figure, the Authority considers the seriousness of the breach and chooses a percentage between 0% and 20%. This range is divided into five fixed levels which represent, on a sliding scale, the seriousness of the breach; the more serious the breach, the higher the level. For penalties imposed on firms there are the following five levels:

Level 1 – 0%

Level 2 – 5%

Level 3 – 10%

Level 4 – 15%

Level 5 – 20%

6.8. In assessing the seriousness level for the purposes of Step 2, the Authority has taken into account the following factors set out in DEPP:

6.8.1. DEPP 6.5A.2G(6-9) which lists factors the Authority will generally take into account in deciding which level of penalty best indicates the seriousness of the breach;

6.8.2. DEPP 6.5A.2G(11) which lists factors likely to be considered 'level 4 or 5 factors'; and

6.8.3. DEPP 6.5A.2G(12) which lists factors likely to be considered 'level 1, 2 or 3 factors'.

6.9. Of these, the Authority considers the following factors to be most relevant to the assessment of seriousness:

6.9.1. The importance of an effective management of conflicts of interest to the fair treatment of the clients of asset managers.

6.9.2. The breaches show serious weaknesses with GIML's management of conflicts of interest.

6.9.3. The breaches were committed negligently.

6.10. The Authority considers the seriousness of the breach to be level 3 (10%).

6.11. The Step 2 figure is therefore £13,005,033.

Step 3: mitigating and aggravating factors

6.12. Pursuant to DEPP 6.5A.3G, at Step 3 the Authority may increase or decrease the amount of the financial penalty arrived at after Step 2 to take into account factors which aggravate or mitigate the breach.

6.13. The Authority considers the following factors are relevant:

6.13.1. In 2012 the Authority highlighted conflicts of interest issues at asset managers and in 2013 GIML attested to the adequacy of its controls.

6.13.2. GIML compensated funds in respect of the SCF cross-trade losses.

6.13.3. GIML has cooperated fully with the Authority's investigation and has committed significant time and resources in doing so. This included promptly and voluntarily commissioning a review into the matters referred to in this Notice and voluntarily meeting with and providing additional information to the Authority, which enabled the investigation to proceed more efficiently.

6.13.4. GIML has developed its conflict of interest framework since the Relevant Periods.

6.14. Taken together, the Authority considers that no change to Step 2 is required. Accordingly, the Step 3 figure is £13,005,033.

Step 4: adjustment for deterrence

- 6.15. Pursuant to DEPP 6.5A.4G, if the Authority considers the figure arrived at after Step 3 is insufficient to deter the firm who committed the breach, or others, from committing further or similar breaches, then the Authority may increase the penalty.
- 6.16. The Authority considers that the Step 3 figure of £13,005,033 represents a sufficient deterrent to GIML and others, and so has not increased the Step 3 figure.
- 6.17. The Step 4 figure is therefore £13,005,033.

Step 5: settlement discount

- 6.18. Pursuant to DEPP 6.5A.5G, if the Authority and the firm on whom a penalty is to be imposed agree the amount of the financial penalty and other terms, DEPP 6.7 provides that the amount of the financial penalty which might otherwise have been payable will be reduced to reflect the stage at which the Authority and the firm reached agreement.
- 6.19. The Authority and GIML reached agreement at Stage 1 and so a 30% discount applies to the Step 4 figure. The Step 5 figure is therefore £9,103,523.

Penalty

- 6.20. The Authority thereby imposes on GIML a penalty of £9,103,523.

7. PROCEDURAL MATTERS

- 7.1. This Notice is given to GIML under section 206, and in accordance with, section 390 of the Act.
- 7.2. The following statutory rights are important.

Decision Maker

- 7.3. The decision which gave rise to the obligation to give this Notice was made by the Settlement Decision Makers.

Manner and time for payment

- 7.4. The financial penalty must be paid in full by GIML to the Authority no later than 12 April 2022.

If the financial penalty is not paid

- 7.5. If all or any of the financial penalty is outstanding on 13 April 2022, the Authority may recover the outstanding amount as a debt owed by GIML and due to the Authority.

Publicity

- 7.6. Sections 391(4) 391(6) and 391(7) of the Act apply to the publication of information about the matter to which this notice relates. Under those provisions, the Authority must publish such information about the matter to which this notice relates as the Authority considers appropriate. The information may be published in such manner as the Authority considers appropriate. However, the Authority may not publish information if such publication would, in the opinion of the Authority, be unfair to you or prejudicial to the interests of consumers or detrimental to the stability of the UK financial system.
- 7.7. The Authority intends to publish such information about the matter to which this Final Notice relates as it considers appropriate.

Authority contacts

- 7.8. For more information concerning this matter generally, contact Stephen Robinson at the Authority (direct line: 020 7066 1338/email: Stephen.Robinson@fca.org.uk).

Mario Theodosiou
Head of Department
Enforcement and Market Oversight Division, Financial Conduct Authority

ANNEX A

RELEVANT STATUTORY AND REGULATORY PROVISIONS

1. STATUTORY PROVISIONS

Section 206 of the Act

- 1.1. Section 206 of the Act gives the Authority power to impose a penalty it considers appropriate on an authorised person, if the Authority considers that an authorised person has contravened a relevant requirement.

Section 1B(1) of the Act

- 1.2. Section 1B(1) of the Act provides that in discharging its general functions, the Authority must, so far as it is reasonably possible, act in a way which is compatible with its strategic objective and advances one or more of its operational objectives. The Authority's strategic objective is to ensure that the relevant markets function well (Section 1B(2) of the Act) and its operational objectives include securing an appropriate degree of protection for consumers. (Section 1C of the Act).

2. REGULATORY PROVISIONS

- 2.1. In exercising its power to issue a financial penalty, the Authority must have regard to guidance published in the Handbook of rules and guidance ("Handbook") and in the regulatory guides such as the Enforcement Guide ("EG"). The relevant main considerations in relation to the action specified above are set out below.

The Principles

- 2.2. The Principles are a general statement of the fundamental obligations of firms under the regulatory system and are set out in the Handbook. They derive their authority from the Act's rule-making powers and reflect the Authority's regulatory objectives.
- 2.3. Principle 2 provides that "*A firm must conduct its business with due skill, care and diligence.*"
- 2.4. Principle 8 provides that "*A firm must manage conflicts of interest fairly, both between itself and its customers and between a customer and another client.*"

The Decision, Procedure and Penalties Manual (“DEPP”)

- 2.5. Chapter 6 of DEPP sets out the Authority’s statement of policy with respect to the imposition and amount of financial penalties under the Act and can be accessed here: <https://www.handbook.fca.org.uk/handbook/DEPP/6/?view=chapter>

The Enforcement Guide

- 2.6. The Authority’s approach to financial penalties is set out in Chapter 7 of EG and can be accessed here:
<https://www.handbook.fca.org.uk/handbook/EG/7/?view=chapter>