

ENFORCEABLE UNDERTAKING

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

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

Recital of Facts

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

1. GFS Investments (Middle East) Limited ("GFS") is a wholly owned subsidiary of GFS Forex and Futures Inc ("GFS Inc") and was licensed by the DFSA on 17 May 2007 as a Category 4 Authorised Firm.
2. Under its license GFS is authorised to arrange credit or deals in Investments and advise on Financial Products or credit in respect of Options or Futures. GFS is not authorised to Deal in Investments as Agent.
3. GOMES was employed by GFS as a Business Associate from June 2007 to 9 March 2008.
4. During his employment, GOMES introduced customers to GFS to facilitate their access to an online foreign currency trading platform offered by GFS Inc. These customers did not meet the Client definition as set out under the Conduct of Business Rulebook.
5. In introducing these customers, GOMES falsified particulars contained in their Customer Account Applications, namely by inflating the customer's current net worth and net liquid assets and by overstating



their financial experience, in contravention of Article 38 of the Markets Law 2004.

6. GOMES conducted trading on the GFS Inc platform on behalf of some customers when not lawfully entitled to do so, in contravention of Article 41(1) of the Regulatory Law.
7. The trading undertaken by GOMES was in many instances unfair, unsuitable and not made in the best interests of the customer. The trading was characterized by a high number and frequency of transactions to the extent they were excessive and resulted in high commissions and fees in addition to trading losses.
8. During the course of the DFSA's investigation GOMES advised one of his customers to provide false information to the DFSA, should he be questioned.

Areas of Concerns

GOMES acknowledges the following concerns held by the DFSA about his conduct during his employment at GFS Investments (Middle East) Limited ("GFS"):

Contravention of Article 41(1) of the Regulatory Law 2004

9. GOMES contravened Article 41(1) of the Regulatory Law by carrying on a Financial Service in or from the DIFC, namely by Dealing in Investments as Agent by conducting discretionary Forex trading on behalf of GFS customers.

Contravention of Article 38 of the Markets Law 2004

10. GOMES contravened Article 38 of the Markets Law by engaging in conduct in relation to investments that was misleading or deceptive, or was likely to mislead or deceive, by:



- a. falsifying customer account opening documentation on behalf of customers without their knowledge; and
- b. failing to disclose that he was were not authorised to:
 - i. provide Financial Services to customers that did not qualify as Clients¹; and
 - ii. Deal in Investments as Agent.²

Contravention of Article 83 of the Regulatory Law 2004

11. GOMES contravened Article 83 of the Regulatory Law by engaging in conduct that was intended to obstruct the DFSA in the exercise of its powers namely by advising one of his customers to provide false information to the DFSA should he be questioned.

Terms and Conditions of Undertaking

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

12. GOMES undertakes to refrain for a period of five years from the date of this undertaking, from performing any function in or in connection with the provision of Financial Services or Ancillary Services in or from the Dubai International Financial Centre.
13. GOMES undertakes to pay a sum of USD\$3000 to the DFSA within 60 days from the date of this Enforceable Undertaking.
14. GOMES undertakes not to disclose to any person, apart from his legal advisor for the purpose obtaining legal advice, any details of this undertaking until otherwise advised in writing by the DFSA.

¹ DFSA Rulebook, Conduct of Business Module 3.3.2 (VER 13/12-07)

² DFSA Rulebook, General Module 2.8.



Remedies for Breach of Undertaking

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

Acknowledgements

16. The facts as set out in this undertaking are without prejudice to the DFSA or GOMES in any other proceedings including, without limitation, any civil, administrative or criminal actions or proceedings that may be brought by any other person or agency.

17. This undertaking does not affect the DFSA's power to investigate or take further action in relation to any other concerns not the subject of the facts as recited above, or arising from future conduct.

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



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Viresh Vimal GOMES

04-09-2008

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Date

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



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Stephen Glynn
Director and Head of Enforcement, DFSA

07-09-08

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Date

