UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

SECURITIES AND EXCHANGE COMMISSION, **450 Fifth Street, N.W.** **Washington, D.C. 20549,** **Plaintiff,** **v.** **AMERICAN INTERNATIONAL GROUP, INC.,** **Defendant.**	:	**Civ. Act. No. _____**

COMPLAINT

Plaintiff, Securities and Exchange Commission ("Commission") alleges as follows:

SUMMARY

1. From at least March 2001 through January 2002, American International Group, Inc. ("Defendant AIG"), primarily through its wholly owned subsidiary AIG Financial Products Corp. ("AIG-FP"), (collectively referred to herein as "AIG") developed, marketed, and entered into transactions that purported to enable a public company (or "counter-party") to remove certain assets from its balance sheet. For a fee, AIG offered to establish a special purpose entity ("SPE") to which the other party to the transaction would transfer troubled or other potentially volatile assets. AIG represented that, under generally accepted accounting principles ("GAAP"), the SPE would not be consolidated on the counter-party's financial statements. The counter-party thus would be able to avoid charges to the income statement of its financial statements resulting from declines in the value of the assets transferred to the

SPE. The transaction that AIG developed and marketed, however, did not satisfy the requirements of GAAP for nonconsolidation of SPEs.

2. The transaction that Defendant AIG developed and marketed, primarily through AIG-FP, was known as a Contributed Guaranteed Alternative Investment Trust Security ("C-GAITS"). AIG marketed the C-GAITS product to several public companies. While AIG was marketing the product, independent auditors for certain potential counter-parties raised issues about whether certain features of the C-GAITS product could cause the product not to satisfy the GAAP requirements for nonconsolidation of SPEs. The independent auditors or the potential counter-parties then communicated those issues to AIG. AIG, however, did not inform the other potential counter-parties of these issues, except in one instance in which a potential counter-party used the same independent auditor as the counter-party that had communicated the issue to AIG.

3. Although AIG marketed the C-GAITS product to several public companies, only one, The PNC Financial Services Group, Inc. ("PNC"), entered into a C-GAITS transaction. From June 28, 2001, through November 30, 2001, PNC and AIG entered into three C-GAITS transactions. Through these transactions (each known as a "PAGIC" transaction), PNC sought to remove a total of $762 million of loan and venture capital assets from its balance sheet and thus to avoid charges to its income statement from declines in the value of these assets. The PAGIC transactions did not satisfy the GAAP requirements for the nonconsolidation of SPEs, and AIG was reckless in not knowing this. Because the PAGIC transactions did not satisfy the GAAP requirements for nonconsolidation, PNC made

materially false and misleading disclosures in its filings with the Commission and in press releases about its financial condition and performance, including, among other things, a material overstatement of its 2001 earnings. AIG received $39.821 million in fees for entering into the three PAGIC transactions.

4. Whether the C-GAITS product satisfied the requirements of GAAP for nonconsolidation of SPEs was material information. AIG was reckless in not knowing that the C-GAITS product did not satisfy those GAAP requirements. In addition, AIG acted recklessly in omitting to inform potential counter-parties about features of the C-GAITS product that AIG was told could cause the product not to satisfy those GAAP requirements and additionally in misrepresenting that the product did satisfy the GAAP requirements.

5. As a result of its conduct, Defendant AIG violated antifraud provisions of the federal securities laws and aided and abetted PNC's violations of reporting and record-keeping provisions of those laws. Specifically, Defendant AIG violated Section 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. § 77q(a)], Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78j(b)], and Exchange Act Rule 10b-5 [17 C.F.R. § 240.10b-5] and aided and abetted PNC's violations of Sections 13(a) and 13(b)(2)(A) of the Exchange Act [15 U.S.C. §§ 78m(a) and 78m(b)(2)(A)] and Exchange Act Rules 12b-20 and 13a-13 [17 C.F.R. §§ 240.12b-20 and 240.13a-13].

6. Accordingly, the Commission seeks a final judgment (a) permanently enjoining Defendant AIG from violating Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)], Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)], and Exchange Act Rule 10b-

5 [17 C.F.R. § 240.10b-5] and from aiding and abetting violations of Sections 13(a) and 13(b)(2)(A) of the Exchange Act [15 U.S.C. §§ 78m(a) and 78m(b)(2)(A)] and Exchange Act Rules 12b-20, 13a-1, and 13a-13 [17 C.F.R. §§ 240.12b-20, 240.13a-1, and 240.13a-13], (b) ordering Defendant AIG to disgorge the $39.821 million in fees that it received in connection with the three PAGIC transactions, plus prejudgment interest thereon, and (c) granting such other relief as the Court deems appropriate

JURISDICTION AND VENUE

7. This Court has jurisdiction pursuant to Sections 20(b) and 22(a) of the Securities Act [15 U.S.C. §§ 77t(b) and 77v(a)] and Sections 21(d)(1) and 27 of the Exchange Act [15 U.S.C. §§ 78u(d)(1) and 78aa]. Defendant AIG, directly or indirectly, made use of the means or instruments of transportation or communication in interstate commerce, or of the mails, and made use of the means and instrumentalities of interstate commerce in connection with the acts, practices, and courses of business alleged in this Complaint.

8. Venue in this Court is proper under Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)] and Section 27 of the Exchange Act [15 U.S.C. § 78aa] because certain of the acts, practices, and courses of business alleged in this Complaint occurred within this District.

DEFENDANT

9. Defendant AIG is a Delaware Corporation with its principal place of business in New York, New York. Through its subsidiaries, Defendant AIG is engaged in a broad range of insurance-related and other activities in the United States and abroad. Defendant

AIG's activities include both general and life insurance operations, financial services, retirement savings, and asset management. Defendant AIG conducts its financial services activities in part through its wholly owned subsidiary AIG-FP, which was primarily responsible for the development and marketing of the C-GAITS product. Certain of Defendant AIG's securities are registered with the Commission pursuant to Section 12(b) of the Exchange Act and are listed on the New York Stock Exchange.

FACTS

Background

10. From at least March 2001 through January 2002, Defendant AIG, primarily through AIG-FP, developed and marketed the C-GAITS product to a variety of public companies and ultimately entered into three C-GAITS transactions with PNC.

11. The C-GAITS product entailed the creation by AIG of a limited liability corporation, an SPE, into which the counter-party would transfer troubled or other potentially volatile assets. AIG retained a national accounting firm, National Accounting Firm A, to provide advice in the development and marketing of the C-GAITS product. National Accounting Firm A provided AIG with opinion letters regarding the treatment under GAAP of the C-GAITS product by the counter-party. As alleged below in this Complaint, those opinion letters did not address certain features of the C-GAITS product that AIG proposed to prospective counter-parties. In marketing the C-GAITS product, AIG represented that, under GAAP, the SPE would not be consolidated on the balance sheet of the counter-party to the transaction.

12. In its marketing materials, AIG informed prospective counter-parties, among other things, that AIG was not and did not purport to be an advisor as to accounting matters and advised counter-parties to make an independent evaluation and judgment regarding such matters.

GAAP Standards for Nonconsolidation of SPEs

13. At all relevant times, GAAP provided that for nonconsolidation to be appropriate, the majority owner of the SPE had to be an independent third party who made a substantive capital investment in the SPE, had control of the SPE, and had substantive risks and rewards of ownership of the assets of the SPE. Conversely, nonconsolidation was not appropriate when the majority owner of the SPE made only a nominal capital investment, the activities of the SPE were virtually all on the sponsor's or transferor's behalf, and the substantive risks and rewards of the assets or the debt of the SPE rested directly or indirectly with the sponsor or transferor. Three percent was the minimally acceptable amount under GAAP to indicate a substantive capital investment sufficient for nonconsolidation, though a greater investment could be necessary depending on the facts and circumstances. GAAP further provided that fees paid to the owner of the SPE for structuring the transaction were treated as a return of the owner's initial capital investment.

Structure of the C-GAITS Product

14. The C-GAITS product provided for the counter-party to transfer troubled or other potentially volatile assets, such as loans or equities, and cash to the SPE. In exchange, the counter-party would receive nonvoting Senior Class A Preferred stock that could be

converted into Class A Common stock. The common stock, if issued, could be voted only to cause an orderly liquidation of the SPE. Although the preferred stock would bear a dividend, the dividend would be noncumulative, would be paid from the cash (if any) derived from the non-cash assets contributed by the counter-party to the SPE, and then only if there were sufficient funds available after payment of certain fees. With the cash that the counter-party contributed, the SPE would purchase a 30-year zero coupon note that, at maturity, would pay an amount equal to the counter-party's initial capital investment in the SPE, which assured the counter-party that it would receive the return of its original investment amount if the note were held to maturity after 30 years without regard to the performance of the troubled or other potentially volatile assets in the SPE. As initially proposed by AIG, the zero coupon note would be issued by AIG.

15. The C-GAITS product provided for AIG to contribute to the SPE cash equal to 3% of the total assets of the SPE. In exchange, AIG would receive Junior Class B Preferred stock and Class B Common voting stock. The cash that AIG contributed would be used to purchase highly rated debt securities. The earnings on those securities would be used to pay a dividend to AIG, which meant that AIG would receive a dividend regardless of the performance of the assets that the counter-party contributed to the SPE.

16. The C-GAITS product also provided for AIG to be paid an annual fee by either the counter-party directly or the SPE from assets or earnings on assets contributed by the counter-party.

The Marketing of C-GAITS

17. AIG began to market the C-GAITS product by no later than March 2001.

18. In materials that AIG prepared to market the C-GAITS product, AIG represented that, based upon advice from National Accounting Firm A, under GAAP, the SPE would not be consolidated on the counter-party's financial statements. The SPE instead would be consolidated on the financial statements of Defendant AIG.

19. The C-GAITS product gave the counter-party contractual rights that permitted it to benefit from appreciation of the assets it contributed to the SPE by redeeming its investment in the SPE or liquidating the SPE in exchange for a distribution of the zero coupon note and other assets or the cash proceeds from their sale. If the value of the assets held by the SPE appreciated, the counter-party could exercise rights of redemption and liquidation that would terminate the transaction and allow it to recognize a gain on its income statement. As long as the SPE held the assets, the counter-party's reported earnings supposedly would not be affected by variations in the value of the assets because the assets would not be consolidated on the counter-party's financial statements and changes in the value of the counter-party's preferred interest in the SPE would be recorded in the "Other Comprehensive Income" line within the Shareholders' Equity section of the counter-party's balance sheet. As a result, as marketed by AIG, the counter-party could recognize gains on its income statement if the SPE's assets appreciated in value but would avoid recognizing losses if those assets declined in value, provided that the counter-party held its preferred interest for 30 years to maturity and therefore received at maturity at a minimum the return of its original investment.

Alternatively, the counter-party could avoid incurring losses by holding its preferred interest while the SPE was incurring losses and then liquidating the SPE when the assets therein enjoyed gains.

AIG Uses SAS-50 Letters to Market the C-GAITS Product

20. To assist in the marketing of the C-GAITS product, AIG requested and received from National Accounting Firm A an opinion letter issued pursuant to Statement of Auditing Standards No. 50 ("SAS-50 letter") addressing the application of GAAP to the C-GAITS transaction. AIG ultimately obtained four SAS-50 letters from National Accounting Firm A that it provided to potential counter-parties to C-GAITS transactions. These SAS-50 letters were dated April 23, 2001, May 16, 2001, November 29, 2001, and December 4, 2001. Each SAS-50 letter opined that the C-GAITS transaction described therein satisfied the GAAP requirements for nonconsolidation of the SPE by the counter-party.

21. The SAS-50 letters that National Accounting Firm A prepared addressed whether AIG had substantive risks and rewards in a C-GAITS transaction and concluded that it did. National Accounting Firm A's April 23, 2001 and May 16, 2001 SAS-50 letters did not mention any fees payable to AIG or discuss the GAAP effect of payment of such fees.

22. On or about April 23, 2001, a partner of National Accounting Firm A who was responsible for drafting the SAS-50 letter informed an employee of AIG of National Accounting Firm A's concerns about the issuance of a zero coupon note by AIG. The concern was that the purchase of a zero coupon note issued by AIG, which would result in the payment to AIG of approximately 20% of the SPE's total assets, could be viewed as a return

of AIG's capital investment. As a result, National Accounting Firm A finalized the April 23, 2001 SAS-50 letter to state that the cash transferred to the SPE along with other assets would be invested in a "zero coupon note maturing in 30 years," without identifying an issuer or specifying whether AIG might issue the zero coupon note.

23. AIG continued to propose the C-GAITS product to prospective counter-parties with a zero coupon note issued by AIG but did not inform those prospective counter-parties of National Accounting Firm A's concerns about the issuance of such a note. In its marketing material, AIG informed the prospective counter-parties that the contemplated accounting treatment was "based upon advice from [National Accounting Firm A]."

24. No C-GAITS transaction was ever consummated with a zero coupon note issued by AIG.

AIG Markets the C-GAITS Product to PNC and Several Insurance Companies

25. On May 29, 2001, representatives of National Insurance Company A and its outside auditor, National Accounting Firm B, participated in a meeting (not attended by any AIG employee) during which they discussed, among other things, "soft spots" noted by National Accounting Firm B in analyzing the accounting for a proposed C-GAITS transaction with AIG. These subjects included whether AIG's capital investment might fall below the minimum (3%) capital investment required by GAAP for nonconsolidation of the SPE by National Insurance Company A if AIG received a "large prepayment" of its fees or if its fees were not received in exchange for services rendered by AIG. On that same day, an employee of National Insurance Company A advised at least one AIG employee of the "soft spots"

noted by National Accounting Firm B and proposed that AIG's equity investment in the SPE be increased from 3% to 5%. By the end of that day, AIG modified the proposed C-GAITS structure for National Insurance Company A to increase AIG's capital investment from 3% to 5%.

26. The C-GAITS transaction that AIG proposed to National Insurance Company A additionally provided for the SPE to purchase a zero coupon note issued by AIG. AIG's written marketing materials sent to National Insurance Company A included a statement that AIG's summary of the GAAP treatment for the transaction was "based upon advice from [National Accounting Firm A]." AIG provided National Insurance Company A with a copy of National Accounting Firm A's April 23, 2001 SAS-50 letter but did not inform National Insurance Company A why National Accounting Firm A's April 23, 2001 SAS-50 letter did not address whether the zero coupon note could be issued by AIG.

27. Also on May 29, 2001 – the day when AIG had discussed the potential C-GAITS transaction with National Insurance Company A – AIG representatives traveled to Pittsburgh, Pennsylvania to provide written marketing materials and to make an oral presentation to PNC regarding a potential C-GAITS transaction. PNC is a bank holding company with its headquarters in Pittsburgh, Pennsylvania that is regulated by the Board of Governors of the Federal Reserve System and the Federal Reserve Bank of Cleveland (together the "Federal Reserve") and has a national bank subsidiary that is regulated by the Comptroller of the Currency. AIG proposed to PNC that AIG would invest 3% equity in an SPE, later known as PAGIC, and that AIG would receive an annual fee of 75 basis points

(0.75%) of the value of certain of the SPE's assets (initially to be the non-cash assets transferred by PNC, and later also to include the cash transferred by PNC, to the SPE). AIG did not inform PNC, on May 29, 2001, or at any other time, that AIG had been asked during negotiations of the prospective transaction with National Insurance Company A to increase its substantive capital investment from 3% to 5% to address "soft spots" in the accounting analysis identified by National Accounting Firm B.

28. The C-GAITS transaction that AIG proposed to PNC further provided for AIG to issue a 30-year zero coupon note to be purchased and held by the SPE. AIG's written marketing materials given to PNC included a statement that AIG's summary of the GAAP treatment of the SPE transactions was "based upon advice from [National Accounting Firm A] related to corporate accounting." AIG provided PNC with a copy of National Accounting Firm A's April 23, 2001 SAS-50 letter but did not inform PNC why National Accounting Firm A's April 23, 2001 SAS-50 letter did not address whether the zero coupon note could be issued by AIG.

29. In May 2001, AIG proposed a C-GAITS transaction to National Insurance Company B. National Insurance Company B asked its outside auditor, National Accounting Firm B, which was also National Insurance Company A's outside auditor, to review the proposed C-GAITS transactions. On May 30, 2001, the day after the discussion between National Insurance Company A and AIG, an employee of AIG informed National Insurance Company B that National Accounting Firm B had identified several "soft spots" in the accounting analysis in response to a review of a similar C-GAITS transaction with another

"insurance client," which was National Insurance Company A. The AIG employee told National Insurance Company B that, to address these "soft spots," AIG had agreed in connection with the proposed transaction with the other "insurance client" to increase AIG's capital investment above 3% and to receive the "overwhelming majority" of the fees from the SPE on an annual, rather than a lump sum, basis. National Insurance Company B ultimately did not consummate a C-GAITS transaction.

30. On June 18, 2001, PNC requested AIG to change the issuer of the 30-year zero coupon note from AIG to some other issuer. PNC explained to one AIG employee that National Accounting Firm A had requested the change because, although National Accounting Firm A believed that the C-GAITS structure "works using [an] AIG Zero," National Accounting Firm A believed there was a risk that the Commission might view the issuance of the zero coupon note by AIG as a return of the capital invested by AIG in the PAGIC entity. PNC and AIG thereupon agreed to substitute a note issued by the United States Treasury for the 30-year zero coupon note to be issued by AIG.

31. Notwithstanding the concern expressed by PNC that National Accounting Firm A had acknowledged the risk that the SEC might view the issuance of the zero coupon note by AIG as a return of the capital invested by AIG in the PAGIC entity, AIG continued to market the C-GAITS product to other prospective counter-parties with the inclusion of a zero coupon note from AIG and did not inform those prospective counter-parties of the accounting concern raised by National Accounting Firm A with PNC. In the written marketing materials that AIG provided to other prospective counter-parties, AIG stated that its summary of the

GAAP treatment for the SPE transactions was "based upon advice from [National Accounting Firm A]."

<u>AIG Enters into Two C-GAITS Transactions - PAGIC I and PAGIC II – with PNC</u>

32. AIG entered into a total of three C-GAITS transactions with PNC. For each of these transactions, AIG formed a limited liability corporation that served as the SPE (each called a "PAGIC" entity). In connection with these transactions, PNC transferred a total of $762 million in loan and venture capital assets to the PAGIC entities. A purpose of the PAGIC transactions was to permit PNC to remove from its financial statements the potentially volatile assets that it transferred to the PAGIC entities and to record on its financial statements PNC's preferred share investments in the PAGIC entities as available for sale securities. PNC could obtain this accounting treatment only if each of the PAGIC transactions satisfied the GAAP requirements for nonconsolidation of an SPE.

33. The first of the PAGIC transactions ("PAGIC I") closed on June 28, 2001 (two days before the end of PNC's second quarter), and the second transaction ("PAGIC II") closed on September 27, 2001 (three days before the end of PNC's third quarter). In the PAGIC I and PAGIC II transactions, PNC transferred to the PAGIC entities loans and participations in loans ("loan assets") held by PNC's principal bank subsidiary, PNC Bank, N.A. In the PAGIC I transaction, PNC transferred $257.3 million in loan assets plus cash to a PAGIC entity, and in the PAGIC II transaction, PNC transferred $334.8 million in loan assets plus cash to a PAGIC entity. PNC viewed a large portion of the loan assets as presenting a substantial risk of loss to PNC.

34. The agreements for the PAGIC I transaction were structured to provide for AIG to receive fees exceeding the $11.6 million that AIG contributed in the transaction. Similarly, the agreements for the PAGIC II transaction were structured to provide for AIG to receive fees exceeding the $16.9 million that AIG contributed in that transaction. Pursuant to the agreements for each transaction, a portion of the fees was paid to AIG at the closing of the transaction and the remainder of the minimum amount that AIG was to receive was to be paid in equal amounts over the following four years. The agreements further provided that, if PNC liquidated the PAGIC entities, AIG would receive the present value of the remainder of that minimum amount that it had not received already.

35. PNC treated the PAGIC I and PAGIC II transactions as complying with the requirements for nonconsolidation under GAAP. PNC therefore removed the assets it transferred to the PAGIC entities from PNC's financial statements. PNC instead recorded PNC's preferred share investments in the SPEs as available for sale securities. Changes in the value of the preferred share investments therefore were recorded in the "Other Comprehensive Income" line item within the Shareholder's Equity section of PNC's balance sheet. Defendant AIG consolidated the SPEs on its financial statements.

36. For each of the PAGIC I and PAGIC II transactions, PNC obtained written advice from its outside auditor that the transaction satisfied the GAAP requirements for nonconsolidation by PNC under GAAP. That written advice, however, did not address the impact on those requirements of the payment of the fee to AIG. PNC's outside auditor at the time of the PAGIC transactions was National Accounting Firm A, which had assisted AIG in

designing the C-GAITS structures and issued the SAS-50 letters to AIG.

37. The PAGIC I and PAGIC II transactions failed to satisfy the GAAP requirement for nonconsolidation of the SPE that AIG, as the independent third-party investor in the SPE, make a substantive capital investment in the SPE of at least 3% of the SPE's assets. Under GAAP, structuring fees paid by the SPE or a transaction counter-party to an investor in the SPE should be deducted from the investor's capital investment for purposes of determining compliance with the capital investment requirement for nonconsolidation of the SPE by the counter-party. The SAS-50 letters that National Accounting Firm A issued to AIG regarding the C-GAITS transaction structure did not address the need to deduct structuring fees paid to AIG.

38. The fees paid to AIG in the PAGIC I and PAGIC II transactions were characterized in the closing documents as a "fee to Managing Member" or, in some instances, as "management fees owed by the Company to the Managing Member," and not as structuring fees. AIG intended that such fees were primarily compensation to AIG for structuring the PAGIC transactions and for taking the assets and liabilities of the PAGIC entities onto its balance sheet, and not primarily for providing management services to the SPEs.

39. Because it deemed the fees received from the PAGIC I and PAGIC II transactions to be structuring fees or balance sheet usage fees that were fully earned immediately, rather than fees for management services to be rendered to the PAGIC entities, AIG recognized in its own earnings reports in the year ending December 31, 2001, the entire

amount of the present value of fees for the initial five years of the PAGIC I and PAGIC II transactions. In this connection, AIG informed its outside auditor, National Accounting Firm B, that AIG had performed all services necessary to earn the initial five years of the fees at the outset of each of the transactions.

40. In light of their nature, the payment of structuring fees to AIG in the PAGIC I and PAGIC II transactions reduced AIG's "substantive capital investment" below the minimum 3% level required by GAAP for nonconsolidation of the SPEs by PNC.

41. The PAGIC I and PAGIC II transactions also did not satisfy the GAAP requirement that the majority owner of the SPE, i.e. AIG, have substantive risks and rewards of ownership of the assets of the SPE. AIG did not have the ability to benefit from any improvement in the value of the assets that PNC had transferred to the SPE because PNC could decide at any time to convert its preferred stock to common stock, vote to liquidate the SPE, and then capture the benefit of the improvement in the value of the assets that it had transferred. At the same time, AIG did not have substantive risks because (a) the fees that it received exceeded the amount that it had contributed to the SPE, (b) the amount that it had contributed was invested in highly rated debt securities and thus substantially protected from loss, and (c) it would receive the dividend on its preferred stock regardless of the performance of the assets that PNC had contributed to the SPE. In addition, AIG did not treat changes in the value of the assets that PNC contributed to the SPE as having any impact on AIG's income statement because it treated any change in the value of those assets as being offset by a corresponding change in its liability on the preferred stock PNC received in connection with

each transaction, e.g., if the assets that PNC contributed to the PAGIC entities declined in value, AIG treated its liability on the preferred stock as having decreased by an equivalent amount.

42. As a result, applying GAAP requirements, PNC should have included the loan assets and other assets of the PAGIC entities in its financial statements and regulatory reports, i.e., PNC should have consolidated the PAGIC entities into PNC's statements and reports.

43. PNC improperly treated the transfers of assets to the PAGIC entities established in the PAGIC I and PAGIC II transactions as sales of those assets that permitted PNC not to report them in its financial statements and regulatory reports. PNC was subsequently required to report these assets in its financial statements and regulatory reports by consolidating the PAGIC entities, and was required by GAAP to classify the assets transferred to those entities as "held for sale" assets. PNC's initial failure to consolidate these assets, combined with the "held for sale" classification they received when subsequently re-consolidated on PNC's balance sheet, resulted, among other things, in (a) a material overstatement of PNC's earnings per share for the third quarter of 2001 by 21.4%, (b) material understatements of the amounts of PNC's nonperforming loans and nonperforming assets reported in PNC's financial statements and regulatory reports for the second and third quarters of 2001, and (c) material overstatements of the amounts of reductions in loans held for sale and overstatements in the amounts of securities available for sale reported in PNC's financial statements and regulatory reports for the second and third quarters of 2001.

AIG Continues to Market the C-GAITS Product

44. During the period from July through October 2001, AIG and National Insurance Company A refined the terms of their proposed C-GAITS transaction to utilize real-estate assets as National Insurance Company A's contribution into the SPE and to specify that National Insurance Company A would pay a structuring fee directly to AIG. At the request of National Insurance Company A, AIG requested that National Accounting Firm A prepare another SAS-50 letter that addressed these modifications to the structure.

45. On October 15, 2001, AIG provided written marketing materials regarding a C-GAITS product to another potential counter-party ("National Insurance Company C"), which included a statement that AIG's summary of the GAAP treatment for the SPE transactions was "based upon advice from [National Accounting Firm A]." These marketing materials prescribed a 3% equity investment in the SPE by AIG.

46. AIG did not inform National Insurance Company C that National Insurance Company A had asked AIG five months earlier to increase its substantive capital investment in the proposed C-GAITS transaction with National Insurance Company A from 3% to 5% to address "soft spots" in the accounting analysis identified by National Accounting Firm B, as alleged in paragraph 25 of this Complaint.

47. On October 23, 2001, the Federal Reserve sent a letter to PNC expressing the Federal Reserve's concern about PNC's decision not to record in its financial statements the assets it had transferred to PAGIC I and PAGIC II. Subsequently, PNC informed AIG that PNC was in discussions with the Federal Reserve regarding the first two PAGIC transactions, having previously informed AIG in September 2001 that the Federal Reserve had "signed off"

on PAGIC I. After receiving the Federal Reserve's letter, PNC postponed the closing of a planned third PAGIC transaction but told an AIG employee that PNC was confident of a favorable review.

48. On November 1, 2001, at the request of National Insurance Company C, AIG sent a term sheet to National Insurance Company C in which AIG increased its equity investment in the SPE from 3% to 5%. The increase in AIG's equity investment in the SPE was based upon comments to the proposed structure by National Accounting Firm B. National Accounting Firm B, which had previously been involved in discussions with National Insurance Company A concerning the timing and nature of AIG's fees as alleged in paragraph 25 of this Complaint, was also the outside auditor for National Insurance Company C and AIG. The term sheet also called for an annual fee of 50 basis points (.5%) to be paid by the SPE to AIG.

49. On November 7, 2001 a PNC employee advised an AIG employee that he had been directed by his superiors at PNC to assume that, notwithstanding the discussions with the Federal Reserve about the first two PAGIC transactions, a third PAGIC transaction would close (which it did on November 30, 2001, as alleged in paragraph 53 of this Complaint).

50. On November 9, 2001, AIG sent a revised term sheet for a C-GAITS transaction to National Insurance Company C. In the revised term sheet, AIG continued to propose that the SPE would purchase a zero coupon note issued by AIG. AIG provided National Insurance Company C with a copy of National Accounting Firm A's April 23, 2001 SAS-50 letter but did not inform National Insurance Company C why National Accounting

Firm A's April 23, 2001 SAS-50 letter did not address whether the zero coupon note could be issued by AIG. AIG also did not inform National Insurance Company C that National Accounting Firm A had requested that a note issued by AIG not be used in C-GAITS transactions with PNC because of the risk that the Commission might view the issuance of such a note by AIG as a return of the capital invested by AIG, as alleged in paragraph 30 of this Complaint. National Insurance Company C ultimately did not consummate a C-GAITS transaction with AIG.

51. In mid-November 2001, in connection with a proposed C-GAITS transaction with a bank holding company other than PNC, AIG learned that that bank holding company intended to discuss the proposed C-GAITS transaction with the Federal Reserve, including the contemplated accounting treatment for the proposed transaction. In late November 2001, AIG received a copy of that bank holding company's presentation to the Federal Reserve concerning the proposed C-GAITS transaction, which addressed (among other things) the contemplated accounting treatment for this transaction. Although AIG had told prospective counter-parties that other C-GAITS transactions had been consummated, AIG did not inform other counter-parties that actual and prospective C-GAITS transactions, including the contemplated accounting treatment for such transactions, had come under review by the Federal Reserve.

52. On November 20, 2001, AIG received a revised draft SAS-50 letter that National Insurance Company A previously had requested in connection with the proposed C-GAITS transaction that it had been considering with AIG. With respect to the payment of the

"structuring fee" directly to AIG by National Insurance Company A, the draft SAS-50 letter stated the following:

> We also considered the effect of the structuring fee required to be paid by Investor to the Class B Common holder, as managing member, during the life of the transaction and for a minimum period of five years. Our consideration focused on whether this fee could represent a return of the initial investment of the independent third party investor in the Class B interest thereby indicating that its initial investment is inadequate. We observe, however, that even if the amount of the required payments (.50% of assets for five years) were deducted from the initial investment by [AIG] in the Class B interests, its initial investment would still exceed the minimum amount required by EITF Topic D-14. Therefore, without further considering the nature of such payment, we concluded that it does not affect the adequacy of the initial investment required by Topic D-14.

The final version of this SAS-50 letter, dated November 29, 2001, contained the identical statements. National Insurance Company A ultimately did not consummate a C-GAITS transaction with AIG.

AIG Enters into a Third C-GAITS Transaction – PAGIC III – with PNC

53. On November 30, 2001, AIG and PNC closed on a third C-GAITS transaction ("PAGIC III"). In this transaction, PNC transferred to the PAGIC entities $169.6 million of venture-capital investments held by nonbank subsidiaries plus cash. PNC viewed the venture capital assets as being subject to volatile changes in values over short periods of time.

54. The agreements for the PAGIC III transaction were structured to provide for AIG to receive fees exceeding the $8 million that AIG contributed in the transaction. Pursuant to the agreements, a portion of the fees was paid to AIG at the closing of the transaction, and the remainder of the minimum amount that AIG was to receive was to be paid over the following four years. The agreements further provided that, if PNC liquidated the PAGIC entities, AIG would receive the present value of the remainder of that minimum amount that it had not received already.

55. As with PAGIC I and PAGIC II, PNC treated the PAGIC III transaction as complying with the requirements for nonconsolidation under GAAP. PNC therefore removed the assets it transferred to the PAGIC entities from PNC's financial statements and recorded PNC's preferred share investments in the SPEs as available for sale securities, with changes in the value of the preferred share investments therefore being recorded in the "Other Comprehensive Income" line item within the Shareholder's Equity section of PNC's balance sheet. Defendant AIG consolidated the SPEs on its financial statements.

56. PNC obtained written advice from its outside auditor, National Accounting Firm A, that the PAGIC III transaction satisfied the GAAP requirements for nonconsolidation

by PNC under GAAP. That written advice, however, did not address the impact on those requirements of the payment of the fee to AIG.

57. The PAGIC III transaction failed to satisfy the GAAP requirements for nonconsolidation of the SPE that AIG, as the independent third-party investor in the SPE, (a) make a substantive capital investment in the SPE, which would have required an investment of at least 3% of the SPE's assets and (b) have substantive risks and rewards of ownership of the assets of the SPE. The PAGIC III transaction failed to satisfy these requirements for the same reasons alleged in paragraphs 37 through 41 of this Complaint that the PAGIC I and PAGIC II transactions also failed to satisfy these requirements.

58. As a result, applying GAAP requirements, PNC should have included the venture-capital investments and other assets of the PAGIC entities in its financial statements and regulatory reports, i.e., PNC should have consolidated the PAGIC entities, which held those assets, into those statements and reports.

59. PNC improperly treated the transfers of assets to the PAGIC entities established in the PAGIC III transaction as sales of those assets that permitted PNC not to report them in its financial statements and regulatory reports. PNC was subsequently required to report these assets in its financial statements and regulatory reports by consolidating the PAGIC entities, and was required by GAAP to classify them as "held for sale" assets. PNC's initial failure to consolidate these assets, combined with the "held for sale" classification they received when subsequently re-consolidated on PNC's balance sheet, resulted, among other things, in a material understatement of PNC's fourth quarter 2001 loss per share of

approximately 25% reported in PNC's January 3, 2002 and January 17, 2002 press releases. The failure to consolidate these assets, together with the failure to consolidate the assets transferred in the PAGIC I and PAGIC II transactions, further resulted in the following material misstatements in the January 17, 2002 press release: (a) an overstatement of 2001 earnings per share by 52%; (b) an understatement of the amount of PNC's nonperforming assets; (c) an overstatement of the amount of reductions in loans held for sale; and (d) an overstatement of the amount of securities available for sale.

60. By the time PAGIC III closed on November 30, 2001, AIG had received the SAS-50 letter from National Accounting Firm A addressing the proposed C-GAITS transaction with National Insurance Company A described in paragraph 52 of this Complaint. The final version and the November 20, 2001 draft of the SAS-50 letter, described in paragraph 52 of this Complaint, noted the possibility that a structuring fee paid to a managing member, i.e. AIG, "could represent a return of the initial investment" of AIG, "thereby indicating that its initial investment is inadequate." AIG did not provide PNC with a copy of this revised draft SAS-50 letter or inform PNC of the concern it raised in relation to the potential for the fee to reduce the level of investment by AIG below the minimum 3% requirement.

AIG Further Markets the C-GAITS Product in December 2001

61. On December 17, 2001, AIG provided written marketing materials proposing a C-GAITS transaction to another potential counter-party ("National Insurance Company D"). These marketing materials prescribed a 3% equity investment in the SPE by AIG. The

proposed transaction contemplated that AIG would receive an annual fee of 50 basis points (.5%) to be paid by the SPE and that AIG would issue a zero coupon note to be purchased and held by the SPE.

62. AIG's written marketing materials sent to National Insurance Company D included a statement that AIG's summary of the GAAP treatment for the SPE transactions was "based upon advice from [National Accounting Firm A]." AIG did not inform National Insurance Company D why, in its SAS-50 letters on C-GAITS transactions, National Accounting Firm A had not addressed whether the zero coupon note could be issued by AIG. AIG also did not inform National Insurance Company D that National Accounting Firm A had requested that a note issued by AIG not be used in C-GAITS transactions with PNC because of the risk that the Commission might view the issuance of such a note by AIG as a return of the capital invested by AIG, as alleged in paragraph 30 of this Complaint. National Accounting Firm A was National Insurance Company D's outside auditor.

63. AIG did not inform National Insurance Company D that AIG had been asked six months earlier during negotiations of the prospective transaction with National Insurance Company A to increase its substantive capital investment from 3% to 5% to address "soft spots" in the accounting analysis identified by National Accounting Firm B. AIG also did not inform National Insurance Company D that AIG had been asked six weeks earlier during negotiations over the prospective C-GAITS transaction with National Insurance Company C to increase its substantive capital investment from 3% to 5% to address comments received from National Accounting Firm B. AIG further did not inform National Insurance

Company D about issues raised two weeks earlier by the Federal Reserve concerning the accounting treatment for a proposed C-GAITS transaction with a bank holding company.

64. National Insurance Company D ultimately did not consummate a C-GAITS transaction with AIG.

AIG and PNC Unwind the Three PAGIC Transactions

65. By January 29, 2002, AIG learned of PNC's decision to consolidate the PAGIC transactions onto PNC's financial statements due to accounting flaws.

66. On February 7, 2002, National Accounting Firm A sent a letter to AIG stating that "[w]e have become aware that in today's regulatory environment there have been challenges to the accounting treatment of certain transactions that are similar in some, but not all, respects to the hypothetical transactions addressed in the referenced [SAS-50] opinions. In light of these challenges and the potential for a range of factual differences among structured transactions that may affect their financial reporting treatment, we believe it would be prudent that the referenced opinions no longer be used."

67. On July 18, 2002, the Commission instituted an administrative proceeding in which the Commission issued an Order Instituting Public Administrative Proceedings Pursuant to Section 8A of the Securities Act of 1933 and Section 21C of the Securities Exchange Act of 1934, Making Findings and Imposing a Cease-and-Desist Order ("Order") that found that PNC's accounting for the PAGIC transactions was not in conformity with GAAP. PNC consented to the issuance of this Order without admitting or denying the findings made by the Commission. Concurrently therewith, the Board of Governors of the

Federal Reserve System announced that PNC and the Federal Reserve Bank of Cleveland had entered into an agreement requiring PNC to improve its management structure, corporate governance, risk management practices, regulatory communications, and internal controls, in order to address matters relating to compliance with GAAP and related matters.

68. On January 22, 2003, AIG and PNC liquidated the PAGIC entities in accordance with their terms following conversion by PNC of its Class A Convertible Preferred securities into Class A Common stock. Following the liquidation, AIG received the additional fees that the agreements for the PAGIC transactions provided for it to receive upon liquidation, as alleged in paragraphs 34 and 54 of this Complaint.

69. On June 2, 2003, PNC ICLC Corp. ("PNCICLC"), a wholly owned indirect subsidiary of PNC, entered into a Deferred Prosecution Agreement with the United States Department of Justice. As part of that Deferred Prosecution Agreement, PNCICLC acknowledged and accepted responsibility for its behavior as set forth in a Statement of Facts incorporated by reference into the Deferred Prosecution Agreement. That Statement of Facts acknowledged, among other things, that the PAGIC transactions violated the GAAP requirements for nonconsolidation of the PAGIC entities by PNC.

CLAIM ONE

Violations of Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)], Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)], and Exchange Act Rule 10b-5 [17 C.F.R. § 240.10b-5]

70. Paragraphs 1 through 69 of this Complaint are hereby restated and incorporated by reference herein.

71. Defendant AIG, directly or indirectly, by use of the means or instruments of transportation or communication in interstate commerce, or of the mails, and use of the means and instrumentalities of interstate commerce in the offer and sale of securities, and in connection with the sale of securities, has employed devices, schemes, or artifices to defraud, has made untrue statements of material facts or omitted to state material facts necessary to make the statements made, in the light of the circumstances under which they were made, not misleading, or has engaged in acts, practices or courses of business which operate or would operate as a fraud or deceit upon any person.

72. As set forth more fully above, Defendant AIG (a) recklessly made misstatements of material facts, and omitted to state material facts, about whether the C-GAITS product satisfied the GAAP requirements for nonconsolidation of an SPE and (b) entered into the three PAGIC transactions with PNC that it was reckless in not knowing did not satisfy the GAAP requirements for nonconsolidation of the SPEs by PNC.

73. By reason of the foregoing, Defendant AIG violated Section 17(a) of the Securities Act, Section 10(b) of the Exchange Act, and Exchange Act Rule 10b-5.

CLAIM TWO

Aiding and Abetting PNC's Violations of Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] and Exchange Act Rules 12b-20 and 13a-13 [17 C.F.R. §§ 240.12b-20 and 240.13a-13]

74. Paragraphs 1 through 69 of this Complaint are hereby restated and incorporated by reference herein.

75. PNC violated Section 13(a) of the Exchange Act and Exchange Act Rules 12b-20 and 13a-13 by filing materially false and misleading quarterly reports on Form 10-Q with the Commission for the second and third quarters of 2001.

76. As set forth more fully above, Defendant AIG knowingly provided substantial assistance to PNC in the filing of PNC's materially false and misleading quarterly reports on Form 10-Q by structuring the PAGIC I and PAGIC II transactions in a manner that did not satisfy the GAAP requirements for nonconsolidation of the SPEs by PNC and by consolidating those SPEs on Defendant AIG's financial statements.

77. By engaging in the conduct described above, Defendant AIG aided and abetted PNC's violation of Section 13(a) of the Exchange Act and Exchange Act Rules 12b-20 and 13a-13.

CLAIM THREE

Aiding and Abetting PNC's Violations of Section 13(b)(2)(A) of the Exchange Act [15 U.S.C. § 78m(b)(2)(A)]

78. Paragraphs 1 through 69 of this Complaint are hereby restated and incorporated by reference herein.

79. PNC violated Section 13(b)(2)(A) of the Exchange Act by failing to consolidate the SPEs, including the assets that it had transferred to the SPEs, established in

connection with the three PAGIC transactions and thus failed to make and keep books, records, and accounts that accurately and fairly reflected PNC's transactions and dispositions of assets.

80. As set forth more fully above, Defendant AIG knowingly provided substantial assistance to PNC in PNC's failure to make and keep accurate books, records, and accounts by structuring the three PAGIC transactions in a manner that did not satisfy the GAAP requirements for nonconsolidation of the SPEs by PNC and by consolidating those SPEs on AIG's financial statements.

81. By engaging in the conduct described above, Defendant AIG aided and abetted PNC's violation of Section 13(b)(2)(A) of the Exchange Act.

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that this Court enter a final judgment

A. Permanently enjoining Defendant AIG from violating Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)], Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)], and Exchange Act Rule 10b-5 [17 C.F.R. § 240.10b-5] and from aiding and abetting violations of Sections 13(a) and 13(b)(2)(A) of the Exchange Act [15 U.S.C. §§ 78m(a) and 78m(b)(2)(A)] and Exchange Act Rules 12b-20, 13a-1, and 13a-13 [17 C.F.R. §§ 240.12b-20, 240.13a-1, and 240.13a-13];

B. Ordering Defendant AIG to disgorge the $39,821,000 in fees that it received in connection with the three PAGIC transactions plus prejudgment interest thereon; and

C. Granting such other relief as the Court shall deem appropriate.

Respectfully submitted,

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