DrinkerBiddle&Reath LLP

Law Offices

One Logan Square
18TH and Cherry Streets
Philadelphia, PA
19103-6996

215-988-2700 phone
215-988-2757 fax
www.drinkerbiddle.com

CALIFORNIA
DELAWARE
ILLINOIS
NEW JERSEY
NEW YORK
PENNSYLVANIA
WASHINGTON DC
WISCONSIN

August 15, 2008

Investment Company Act of 1940:
Section 10(f)

Douglas J. Scheidt, Esq.
Associate Director and Chief Counsel
Division of Investment Management
Securities and Exchange Commission
100 F Street, NE
Washington, D.C. 20549-0506

Re: No-Action Request of Goldman Sachs Trust: Investment Company Act Section 10(f)

Dear Mr. Scheidt:

This letter is submitted on behalf of Goldman Sachs Trust (the "Trust"). The Trust requests the advice of the staff that it will not recommend that the Commission take action pursuant to Section 10(f) of the Investment Company Act of 1940, as amended (the "1940 Act"), if the Trust purchases or otherwise acquires securities under the circumstances described in this letter. For purposes of this letter, references to a Fund's "purchase" of securities means "purchase or otherwise acquires" as that term appears in Section 10(f).

Background

The Trust is registered as an open-end management investment company under the 1940 Act and currently offers shares in multiple investment funds ("Funds") to the public. Goldman, Sachs & Co. ("GS&Co.") serves as the Funds' principal underwriter. Some of the Funds invest primarily in fixed income securities. Goldman Sachs Asset Management, L.P. and Goldman Sachs Asset Management International (the "Investment Advisers") provide investment advisory services to the Funds.

From time to time GS&Co. also serves as a principal underwriter of securities in transactions that are within the scope of the prohibition in Section 10(f) of the 1940 Act, unless the exemption provided by Rule 10f-3 thereunder applies. Sometimes these underwritings present situations that potentially raise questions as to the application of subparagraph (c)(4) of Rule 10f-3. This letter addresses two types of situations, which are described below, in which these questions can arise.

Established 1849

The first situation involves the underwriting of fixed income securities[1] that have two or more co-issuers ("co-issuer underwritings"). The second situation involves the underwriting of fixed income securities where the payment of principal and interest payable on the securities is fully backed by the guarantee[2] of another entity acting as "guarantor" ("guarantor underwritings").

The types of fixed income securities that are underwritten in these co-issuer and guarantor underwritings are securities that are described in Rule 10f-3(c)(4). That is, either the securities are part of an issue registered under the Securities Act of 1933 that is being offered to the public or government securities (as defined in Section 2(a)(16) of the 1940 Act), or the securities are part of an "Eligible Foreign Offering" or "Eligible Rule 144A Offering" as those terms are defined in Rule 10f-3.

Each *co-issuer underwriting* in which GS&Co. is a principal underwriter has the following characteristics:

- The company whose fixed income securities are offered in a co-issuer underwriting ("Co-Issuer A") is an established company that has been in continuous operation for at least three years (including its predecessors, if any). The proceeds of the securities offering are typically used for Co-Issuer A's business purposes (for example, to finance asset acquisitions, to finance operations or to repay debt).

- In addition, a separate entity ("Co-Issuer B") serves as a co-issuer of the securities issued in Co-Issuer A's offering. Co-Issuer B is either a wholly-owned subsidiary of Co-Issuer A or is under common control with Co-Issuer A.

---

[1] For purposes of this letter, the term "fixed income securities" includes convertible and non-convertible debt securities, preferred securities, lease certificates, equipment certificates, and other instruments that provide for payments of interest, dividends, or other payments at fixed or variable rates.

[2] For purposes of this letter, "guarantee" means any unconditional obligation, including without limitation an obligation under a letter of credit, of a person to pay the principal amount of the fixed income securities involved, plus accrued interest, when due or upon default.

- Co-Issuer B may have been in existence for less than three years at the time of the securities offering. In addition, Co-Issuer B may have only nominal assets and may have no revenue.

- Co-Issuer A and Co-Issuer B are each unconditionally responsible for 100% of the payment obligations on the fixed income securities that are issued, although the Funds will rely on the credit of Co-Issuer A, which has been in continuous operation for not less than three years, for payment of these obligations (and not Co-Issuer B's credit) because Co-Issuer B is likely to have minimal assets and revenue.

- A Fund would have direct recourse against each of Co-Issuer A and Co-Issuer B.

Each *guarantor underwriting* in which GS&Co. is a principal underwriter has the following characteristics:

- The fixed income securities offered in a guarantor underwriting are backed by the unconditional guarantee of an established company ("Guarantor") that has been in continuous operation for at least three years (including its predecessors, if any).[3]

- Guarantor's unconditional guarantee provides for the payment in full of principal and interest on the securities purchased by the Funds.

- The securities guaranteed by Guarantor are issued by another company ("Issuer C"), which normally is an affiliate of Guarantor. Issuer C may have been in existence for less than three years at the time of the securities offering.

[3] It is possible that in some guarantor underwritings the securities will be guaranteed by two or more Guarantors, each of which has been in continuous operation for at least three years (including its predecessors, if any). It is also possible that the guarantee of each of these Guarantors will be a "fractional guarantee," that is, a guarantee relating to a specified portion of the value of the underwritten securities. However, in these situations, the sum of the portions of the securities covered by these fractional unconditional guarantees will equal 100% of the value of the securities. For convenience, the term "Guarantor" includes these multiple Guarantors.

- A Fund would have direct recourse against each of Guarantor and Issuer C.

- In determining whether to purchase the securities, the Funds will rely on the credit of Guarantor, which has been in continuous operation for not less than three years, for the payment obligations.

From an economic perspective, the structure of co-issuer underwritings and guarantor underwritings are similar. The unconditional payment obligations of Co-Issuer A (in co-issuer underwritings) and Guarantor (in guarantor underwritings), as described above, are referred to collectively in this letter as Unconditional Obligations. In each of a co-issuer underwriting or guarantor underwriting, it is the credit of Co-Issuer A or Guarantor, respectively, each of which has been in continuous operation for not less than three years, which stands behind the fixed income securities to be purchased by the Funds. Absent the Unconditional Obligations of Co-Issuer A or Guarantor, the Funds would not purchase securities in these underwritings.

Section 10(f) and Rule 10f-3

Section 10(f) of the 1940 Act provides:

> No registered investment company shall knowingly purchase or otherwise acquire, during the existence of any underwriting or selling syndicate, any security ... a principal underwriter of which is an ... investment adviser ... of such registered company, or is a person ... of which any such ... investment adviser ... is an affiliated person ...
> .

Section 10(f) was designed to protect funds and their investors from the "dumping" of unmarketable securities on a fund in order to benefit the fund's affiliated underwriter. See Investment Trusts and Investment Companies: Hearings on S. 3580 Before a Subcomm. of the Senate Comm. on Banking and Currency, 76th Cong., 3d Sess. 35 (1940) (statement of Commissioner Healy). An underwriter could, for example, "dump" unmarketable securities on its controlled fund, either by causing the fund to purchase the securities from the underwriter itself, or by encouraging the fund to purchase securities from another member of the underwriting syndicate. See, e.g., Exemption for the Acquisition of Securities During the Existence of an Underwriting or Selling Syndicate, Investment Company Act Release No. 24775 n.4, 2000 SEC LEXIS 2610

(Nov. 29, 2000) ("Release No. 24775").

Pursuant to the authority granted in Section 10(f), the Commission adopted Rule 10f-3 in 1958 (Investment Company Act Release No. 2797 (Dec. 2, 1958)), and incorporated various conditions and safeguards that were based on the Commission's experience in connection with prior exemptive orders granting relief from Section 10(f). The conditions of Rule 10f-3 are designed to ensure that the purchases are not likely to raise the concerns that Section 10(f) was enacted to address, and are thus consistent with the protection of investors. See, e.g., Release No. 24775. One condition (the "continuous operation condition") set forth in subparagraph (c)(4) of Rule 10f-3 provides:

> Continuous Operation. If the securities to be purchased are part of an issue registered under the Securities Act of 1933 that is being offered to the public, are government securities (as defined in Section 2(a)(16) of the [1940] Act), or are purchased pursuant to an Eligible Foreign Offering or an Eligible Rule 144A Offering, the issuer of the securities must have been in continuous operation for not less than three years, including the operations of any predecessors.

The continuous operation condition was included in Rule 10f-3 as originally adopted and, insofar as it relates to the matter discussed in this letter, has not changed materially since that time.

As noted above, each Investment Adviser is an "investment adviser" of the Funds it advises, and may also be an "affiliated person" of GS&Co. by virtue of Section 2(a)(3)(C) of the 1940 Act in that GS&Co. and the Investment Advisers may be deemed to be under common control. Therefore, under Section 10(f), the Funds are generally prohibited from purchasing or otherwise acquiring, during the existence of an underwriting or selling syndicate, a security a principal underwriter of which is GS&Co. The Board of Trustees of the Trust has adopted procedures pursuant to which purchases that would otherwise be prohibited by Section 10(f) may be effected for the Funds ("Rule 10f-3 Procedures"). The Rule 10f-3 Procedures are reasonably designed to provide that such purchases comply with the conditions of Rule 10f-3.

Discussion

We believe that the concerns addressed by Section 10(f) will be alleviated with respect to any purchases by a Fund in a co-issuer underwriting or guarantor underwriting because of the manner in which such purchases will be effected. Any

purchases made by a Fund in a co-issuer underwriting or guarantor underwriting will be effected pursuant to the Rule 10f-3 Procedures. A Fund will comply with all conditions of Rule 10f-3 except for the continuous operation condition as it relates to (a) Co-Issuer B in a co-issuer underwriting, or (b) Issuer C in a guarantor underwriting. Because it is the credit and Unconditional Obligation of (a) Co-Issuer A in a co-issuer underwriting or (b) Guarantor in a guarantor underwriting, each of which will have been in continuous operation for not less than three years, that stands behind the fixed income securities purchased by the Funds, we also believe that the concerns addressed by the continuous operation condition of Rule 10f-3 as it may apply to Co-Issuer B or Issuer C will be negated.

It is generally understood that the purpose of the continuous operation condition is to prevent the purchase of less seasoned securities, and to remove the possibility that an affiliated underwriter might "unload" otherwise unmarketable securities on an investment company.[4] This concern is, however, inapplicable here because in every co-issuer underwriting and guarantor underwriting, as described above, the credit and Unconditional Obligation of an entity that has been in continuous operation for not less than three years (including the operation of any predecessors) will stand behind the payment of the fixed income securities purchased by the Funds.

We believe the Funds will be unnecessarily constrained if they are not able to purchase securities in co-issuer underwritings and guarantor underwritings. If the Funds are precluded from purchasing securities in these underwritings, they do not have the opportunity to buy the securities before the underwriting syndicate is closed and the securities are offered in the aftermarket. At that point in time the securities may be unavailable for purchase if the demand for the securities outstrips the supply. Moreover, even if the securities are available in the aftermarket for purchase by the Funds, the Funds may pay additional transaction costs, including brokerage commissions and dealer spreads, that they would not pay if they were able to purchase the securities in the underwritten offering. Furthermore, the potential for the adverse consequences to the Funds (i.e, loss of investment opportunities and higher transaction costs) is aggravated by the consolidation of the financial services industry in recent years. Consolidation among financial services firms increases the likelihood that an affiliated underwriter will be a member of co-issuer and guarantor underwriting syndicates.

---

[4] See, e.g., Exemption of Acquisition of Securities During the Existence of Underwriting Syndicate, Investment Company Act Release No. 10592, 1979 SEC LEXIS 2154 (Feb. 13, 1979).

In addition, while we do not believe it is necessary for the staff to reach this conclusion to grant the requested relief, arguably an "issuer of the securities," as that phrase is used in sub-paragraph (c)(4) of Rule 10f-3, is Co-Issuer A or Guarantor, as the case may be, and that their qualification as "issuers" under sub-paragraph (c)(4) of Rule 10f-3 is not affected by the presence of Co-Issuer B or Issuer C. Consequently, the continuous operation condition of Rule 10f-3 would be satisfied with respect to an "issuer of the securities," thus satisfying all the conditions of Rule 10f-3.

With respect to a co-issuer underwriting, as stated above, Co-Issuer A and Co-Issuer B are each responsible for 100% of the payment obligations on the fixed income securities that are issued. Accordingly, Co-Issuer A is an "issuer" within the meaning of Section 2(a)(23) of the 1940 Act to the same extent that Co-Issuer B is an "issuer."

With respect to a guarantor underwriting, the definition of "security" under Section 2(a)(36) of the 1940 Act includes a "guarantee of" another instrument included within the definition of "security." Therefore, Guarantor is an "issuer" of the guarantee which is itself a security. The Commission and its staff have acknowledged that a guarantee is a security separate from the underlying security to which the guarantee relates for purposes of the diversification requirements of Section 5(b) of the 1940 Act. See, e.g., Certain Matters Concerning Investment Companies Investing in Tax-Exempt Securities, Investment Company Act Release No. 9785, 1977 SEC LEXIS 1653 (May 31, 1977); Dreyfus New York Tax Exempt Bond Fund, Inc., 1977 SEC LEXIS No-Act. 1924 (May 16, 1977); Pennsylvania Tax-Free Income Trust, 1977 SEC LEXIS No-Act. 621 (Mar. 4, 1977).

Furthermore, co-issuer underwritings and guarantor underwritings are substantially similar to the underwriting considered by the staff in Nat'l Aviation & Technology Corp., 1977 SEC No-Act. LEXIS 2360 (Sept. 17, 1977) ("Nat'l Aviation"). In Nat'l Aviation, World Airways, Inc. ("World") filed with the Commission a registration statement relating to secured equipment certificates ("Equipment Certificates"). National Aviation & Technology Corporation ("National Aviation") was a registered closed-end investment company that would have been prohibited from purchasing the Equipment Certificates unless the purchase met all the conditions of Rule 10f-3. The nominal issuer of the Equipment Certificates was the trustee of a trust (the "Owner Trustee") that was formed to facilitate a leveraged lease financing (the "Lease"). The trust apparently had continuous operations for less than three years. National Aviation's counsel reasoned that "[current paragraph (c)(4)] of Rule 10f-3 is intended to impose the condition that the issuer whose credit stands behind the security to be purchased shall

have been in continuous operation for not less than three years . . ." and argued that the condition was satisfied because World had been in continuous operation for not less than three years, and it was the credit of World which stood behind the Equipment Certificates, since payments of interest and principal on the Equipment Certificates would generally be made from rentals paid to the Owner Trustee by World pursuant to the Lease. The staff stated that it would not recommend that the Commission take any enforcement action if National Aviation purchased the Equipment Certificates assuming the purchase otherwise complied with the conditions of Rule 10f-3. We believe that the position taken in Nat'l Aviation is equally applicable to the facts presented above.

Conclusion

We believe that the ability to purchase securities in co-issuer and guarantor underwritings in the manner described in this letter will benefit the Funds and their shareholders by providing the Funds greater opportunity to purchase attractive securities at competitive prices subject to all of the protections of Rule 10f-3,[5] except for the continuous operation condition with respect to Co-Issuer B in a co-issuer underwriting, and Issuer C in a guarantor underwriting. In addition, we believe that Co-Issuer A in a co-issuer underwriting, and Guarantor in a guarantor underwriting each may be considered to be an "issuer" in determining whether the continuous operation condition set forth in subparagraph (c)(4) of Rule 10f-3 is satisfied, although we do not believe the staff needs to agree with this position to grant the relief requested.

For these reasons, the Trust respectfully requests the staff's advice that it will not recommend enforcement action to the Commission under Section 10(f) of the 1940 Act if the Funds purchase securities in co-issuer and guarantor underwritings as described.

[5] These protections, codified in Rule 10f-3, include, among others, requirements relating to the timing and price of securities purchases, the amount of securities that can be purchased, the type of underwriting commitment involved, adherence to the Commission's fund governance standards, and restrictions on purchases from affiliated underwriters.

Please do not hesitate to call Audrey C. Talley at (215) 988-2719 or Edward T. Searle of this office at (215) 988-2442 with any questions regarding the matters discussed in this letter.

Very truly yours,

Audrey C. Talley

Audrey C. Talley