



UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

10/2/03

DIVISION OF
CORPORATION FINANCE

September 4, 2003

Brian T. Frawley, Esq.
Sullivan & Cromwell LLP
125 Broad Street
New York, New York 10004-2498

Re: Goldman, Sachs & Co.—Waiver Request under Regulation A and Rule 505 of Regulation D

Dear Mr. Frawley:

This is in response to your letter dated September 4, 2003, written on behalf of Goldman, Sachs & Co. (the "Firm") and constituting an application for relief under Rule 262 of Regulation A and Rule 505(b)(2)(iii)(C) of Regulation D under the Securities Act of 1933. You requested relief from disqualifications from exemptions available under Regulation A and Rule 505 of Regulation D that arise by virtue of the entry today of a Commission order under Section 15(b) of the Securities Exchange Act of 1934 (the "Order").

For purposes of this letter, we have assumed as facts the representations set forth in your letter. We also have assumed that the Firm will comply with the Order.

On the basis of your letter, the Commission, pursuant to delegated authority, has determined that you have made a showing of good cause under Rule 262 and Rule 505(b)(2)(iii)(C) that it is not necessary under the circumstances to deny the exemptions available under Regulation A and Rule 505 of Regulation D by reason of entry of the Order. Accordingly, the relief described above from the disqualifying provisions of Regulation A and Rule 505 of Regulation D is hereby granted.

Sincerely,

A handwritten signature in black ink that reads "Gerald J. Laporte".

Gerald J. Laporte
Chief, Office of Small Business Policy



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October 8, 2003

Via Federal Express

Gerald J. Laporte, Esq.,
Chief, Office of Small Business Policy,
Division of Corporation Finance,
U.S. Securities and Exchange Commission,
450 Fifth Street, N.W., Mail Stop 0310,
Washington, D.C. 20549.

Re: In the Matter of Goldman, Sachs & Co. (File No. 3-11240)

Dear Mr. Laporte:

This letter is submitted on behalf of Goldman, Sachs & Co. ("Goldman Sachs"), which is a settling respondent in the above-captioned proceeding. Goldman Sachs below requests, pursuant to Rule 262 of Regulation A and Rule 505(b)(2)(iii)(C) of Regulation D of the Securities and Exchange Commission (the "Commission") promulgated under the Securities Act of 1933 (the "Securities Act"), a waiver of any disqualification from exemptions under Regulation A and Rule 505 of Regulation D that may be applicable to Goldman Sachs and any of its affiliates as a result of the entry of the Commission Order described below, entered on September 4, 2003. Goldman Sachs requests that these waivers be granted effective upon entry of the Commission's Order. It is our understanding that the Division of Enforcement does not object to the grant of the requested waivers.

BACKGROUND

The staff of the Division of Enforcement engaged in settlement discussions with Goldman Sachs in connection with the above-captioned proceeding, which were brought pursuant to Sections 15(b)(4) and 21C of the Securities Exchange Act of 1934 (the "Exchange Act"). As a result of these discussions, Goldman Sachs submitted an offer of settlement, which was accepted by the Commission in an order dated September 4, 2003 (the "Order"). In the offer of settlement, solely for the purpose of the above-captioned proceeding and any other proceedings brought by or on behalf of the Commission or to which the Commission is a party, Goldman Sachs consented to the entry of the Order without admitting or denying the matters set forth therein (other than those relating to the jurisdiction of the Commission).

In the Order, the Commission made findings, without admission or denial by Goldman Sachs, that Goldman Sachs violated Sections 15(c)(1)(A), 15(c)(1)(C) and 15(f) of the Exchange Act and Rule 15c1-2 thereunder in connection with certain trading by Goldman Sachs in 30-year U.S. Treasury securities in advance the Treasury's October 31, 2001 refunding announcement. Based on these findings, the Order requires that Goldman Sachs cease and desist from committing or causing any violations of Sections 15(c)(1)(A), 15(c)(1)(C) and 15(f) of the Exchange Act and Rule 15c1-2 thereunder and pay disgorgement of profits associated with certain transactions by Goldman Sachs in 30-year U.S. Treasury bonds and bond futures on the morning of October 31, 2001, and a monetary penalty.

DISCUSSION

Goldman Sachs understands that the Order may disqualify it and its affiliated entities from certain exemptions under Regulations A and Rule 505 of Regulation D promulgated under the Securities Act insofar as the Order may be deemed to cause Goldman Sachs to be subject to an order of the Commission entered pursuant to Section 15(b) of the Exchange Act. The Commission has the authority to waive the Regulation A and Rule 505 exemption disqualifications upon a showing of good cause that such disqualifications are not necessary under the circumstances. *See* 17 C.F.R. §§ 230.262 and 230.505(b)(2)(iii)(C).

Goldman Sachs seeks a waiver of the exemption disqualifications under Regulations A and Rule 505 on the following grounds:

1. Goldman Sachs' conduct addressed in the Order does not pertain to offerings under Regulation A or Regulation D, but instead is confined to certain open market purchases by Goldman Sachs of U.S. Treasury securities exempted from registration under Section 3(a)(2) of the Securities Act.

2. The disqualification of Goldman Sachs from the exemptions under Regulation A and Rule 505 of Regulation D would be unduly and disproportionately severe given the nature of the violation found in the Order and the extent to which disqualification would affect Goldman Sachs' business operations, particularly in the area of underwriting activity. In addition, the disqualification of Goldman Sachs from the regulatory exemptions may, we believe, have an unduly adverse impact on third parties that have retained Goldman Sachs in connection with transactions that rely on the regulatory exemptions.

3. The disqualification of Goldman Sachs from the exemptions under Regulation A and Rule 505 of Regulation D would be unduly and disproportionately severe, given that (a) the Order relates to isolated trading activity which occurred during

Gerald J. Laporte, Esq.

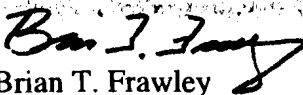
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a less than eight minute period on a single day; and (b) Goldman Sachs is required to disgorge profits associated with the conduct that is the subject of the Order.

In light of the grounds for relief discussed above, we believe that disqualification is not necessary, in the public interest or for the protection of investors, and that Goldman Sachs has shown good cause that relief should be granted.¹ Accordingly, we respectfully request the Commission to waive the disqualification provisions in Regulation A and Rule 505 of Regulation D to the extent they may be applicable to Goldman Sachs and any of its affiliates as a result of the entry of the Order.²

If you have any questions regarding this request, please contact the undersigned at (212) 558-4983.

Sincerely yours,


Brian T. Frawley

cc: Lawrence A. West, Esq.

¹ The fact that Goldman Sachs has received waivers of any disqualification from exemptions under Regulations A and D in the past, see In the Matter of Dain Rauscher Inc., et.al., SEC No-Action Letter (Apr. 6, 2000), is irrelevant to the standard under which the Commission may consider and grant the currently requested waivers. Such previously obtained waivers were granted on their own merits, while the current request is based on the facts, circumstances and reasons set forth above.

² We note in support of this request that the Commission in other instances has recently granted relief under Rule 262 of Regulation A and Rule 505(b)(2)(iii)(C) of Regulation D for similar reasons. See, e.g., In the Matter of Merrill Lynch & Co., SEC No-Action Letter (pub. avail. March 17, 2003); In the Matter of Credit Suisse First Boston Corp., SEC No-Action Letter (pub. avail. Jan. 29, 2002); In the Matter of Dain Rauscher, Inc., SEC No-Action Letter (pub. avail. Sept. 24, 2001); In the Matter of Certain Market Making Activities on NASDAQ, SEC No-Action Letter (pub. avail. Jan. 11, 1999).