

**STATE OF VERMONT  
DEPARTMENT OF BANKING, INSURANCE, SECURITIES  
AND HEALTH CARE ADMINISTRATION**

In the matter of	)	
	)	<b>DOCKET NO. 10-032-S</b>
GOLDMAN, SACHS & CO.,	)	
	)	<b>ADMINISTRATIVE CONSENT ORDER</b>
	)	
Respondent.	)	
	)	

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WHEREAS, Goldman, Sachs & Co. (“Goldman Sachs” or “Respondent”) is a broker-dealer registered in the state of Vermont; and

WHEREAS, the Commissioner (“Commissioner”) of the Vermont Department of Banking, Insurance, Securities and Health Care Administration (“BISHCA”) has been a part of coordinated investigations into Goldman Sachs’ activities in connection with the marketing and sale of auction rate securities (“ARS”); and

WHEREAS, Goldman Sachs has cooperated with regulators conducting the investigations by responding to inquiries, providing documentary evidence and other materials, and providing regulators with access to facts relating to the investigations; and

WHEREAS, Goldman Sachs has advised regulators of its agreement to resolve the investigations relating to its marketing and sale of ARS to individual investors; and

WHEREAS, Goldman Sachs agrees to take certain actions described herein and to make certain payments; and

WHEREAS, Goldman Sachs admits to the jurisdiction of the Commissioner and consents to the entry of this Administrative Consent Order (the “Order” or “Consent Order”); and

WHEREAS, Goldman Sachs waives compliance with the provisions of the Vermont Administrative Procedure Act, 3 V.S.A., Chapter 25; and

WHEREAS, Goldman Sachs elects to permanently waive any right to a hearing and appeal under the Vermont Uniform Securities Act, 9 V.S.A., Chapter 150 (the “Act”) and to judicial review of this Consent Order; and



1 are potentially stuck holding long-term investments, not money market instruments. As discussed  
2 below, starting in the Fall of 2007, the auction rate securities market faced dislocation and an  
3 increased risk of auction failure.

4         6.         Since it began participating in the auction rate securities market, Goldman Sachs  
5 submitted “cover” bids, purchase orders for the entirety of an auction rate security issue for which  
6 it acted as the sole or lead auction manager. Such “cover” bids were Goldman Sachs proprietary  
7 orders that would be filled, in whole or in part, if there was otherwise insufficient demand in an  
8 auction. When Goldman Sachs purchased auction rate securities through “cover” bids, those  
9 auction rate securities were then owned by Goldman Sachs and the holdings were recorded on  
10 Goldman Sachs’ balance sheet. For risk management purposes, Goldman Sachs imposed limits on  
11 the amounts of securities its Municipal Money Markets unit could hold (which included Goldman  
12 Sachs’ auction rate securities holdings).

13         7.         Because many investors could not ascertain how much of an auction was filled  
14 through Goldman Sachs “cover” bids, those investors could not determine if auctions were clearing  
15 because of normal marketplace demand, or because Goldman Sachs was making up for the lack of  
16 demand through “cover” bids. Many investors were also not aware that the liquidity of the auction  
17 rate securities was dependent upon Goldman Sachs’ continued use of “cover” bids. While  
18 Goldman Sachs could track its own inventory as a measure of the supply and demand for its  
19 auction rate securities, many investors had no comparable ability to assess the operation of the  
20 auctions. There was no way for those investors to monitor supply and demand in the market or to  
21 assess when broker-dealers might decide to stop supporting the market, which could cause its  
22 collapse.

23         8.         In August of 2007, the credit crisis and other deteriorating market conditions began  
24 to strain the auction rate securities market. Some institutional investors withdrew from the market,  
25 decreasing demand for auction rate securities.

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1 was not a client of Goldman Sachs as of August 31, 2008, as of the date that the client  
2 terminated its client relationship with Goldman Sachs. Notwithstanding any other  
3 provision, "Small Businesses" does not include broker-dealers or banks acting as conduits  
4 for their customers.

5 26. Goldman Sachs shall have offered to purchase, at par plus accrued and unpaid  
6 dividends/interest, from Eligible Investors their Eligible ARS that since February 11, 2008, have  
7 not been auctioning ("Buyback Offer"), and explain what Eligible Investors must do to accept, in  
8 whole or part, the Buyback Offer. The Buyback Offer shall have remained open until at least  
9 November 12, 2008 ("Offer Period"). Goldman Sachs may extend the Offer Period beyond this  
10 date.

11 27. Goldman Sachs shall have undertaken its best efforts to identify and provide notice  
12 to Eligible Investors who invested in Eligible ARS that since February 11, 2008, have not been  
13 auctioning, of the relevant terms between Goldman Sachs and the Commissioner.

14 28. Eligible Investors may have accepted the Buyback Offer by notifying Goldman  
15 Sachs at any time before midnight, Eastern Time, November 12, 2008, or such later date and time  
16 as Goldman Sachs may extend the Offer Period. For Eligible Investors who accepted the Buyback  
17 Offer within the Offer Period, Goldman Sachs shall have purchased the Eligible ARS on or before  
18 November 17, 2008 (or a later date if an offer period is extended). For Eligible Investors who  
19 accepted the Buyback Offer within the Offer period but custodied their Eligible ARS away from  
20 Goldman Sachs, Goldman Sachs shall repurchase the Eligible ARS upon receipt of assurance  
21 reasonably satisfactory to Goldman Sachs from the Eligible Investor's current financial institution  
22 that the bidding rights associated with the Eligible Auction Rate Securities will be transferred to  
23 Goldman Sachs and transfer of the Eligible ARS.

24 29. No later than December 31, 2009, any Eligible Investor who for good cause  
25 (including but not limited to incapacity or failure to receive the notice provided for in  
26 paragraph 27) did not accept the Buyback Offer pursuant to paragraph 28 above, shall be entitled to

1 sell their Eligible ARS, at par, to Goldman Sachs for (30) days after establishing such good cause,  
2 and Goldman Sachs shall purchase such Eligible Investor's Eligible ARS promptly.

3 30. No later than October 20, 2008, Goldman Sachs shall have established a dedicated  
4 toll-free telephone assistance line, with appropriate staffing, to provide information and to respond  
5 to questions from clients concerning the terms of the settlement between Goldman Sachs and the  
6 Commissioner.

#### 7 **Review of Client Accounts**

8 31. For a period of two years from the date of this Order, upon request from any firm  
9 that is repurchasing auction rate securities, upon receipt from the repurchasing firm of (i) the names  
10 of any Goldman Sachs clients that may hold ARS subject to the repurchasing firm's repurchase  
11 offer, (ii) the CUSIPs of the Eligible ARS, (iii) the clients' Goldman Sachs' account number(s) (if  
12 known to the repurchasing firm), and (iv) the date those ARS were transferred to Goldman Sachs  
13 (if known to the repurchasing firm), Goldman Sachs shall take reasonable steps to provide notice to  
14 those clients of the repurchasing firm's repurchase offer.

#### 15 **Relief for Investors Who Sold Below Par**

16 32. By November 12, 2008, Goldman Sachs shall have undertaken its best efforts to  
17 identify any Eligible Investor who sold Eligible ARS below par between February 11, 2008, and  
18 August 21, 2008, and shall have paid any such Eligible Investor the difference between par and the  
19 price at which the Eligible Investor sold the Eligible ARS.

#### 20 **Reimbursement for Related Loan Expenses**

21 33. Goldman Sachs shall have made best efforts to identify Eligible Investors who took  
22 out loans from Goldman Sachs, between February 11, 2008, and March 19, 2010, that were secured  
23 by Eligible ARS that were not successfully auctioning at the time the loan was taken out from  
24 Goldman Sachs, and paid interest associated with the auction rate securities based portion of those  
25 loans in excess of the total interest and dividends received on the auction rate securities during the  
26 duration of the loan. Goldman Sachs shall have reimbursed such clients for the excess expense,

1 plus reasonable interest thereon. Such reimbursement shall have occurred no later than March 31,  
2 2010.

### 3 **Claims for Consequential Damages**

4 34. Goldman Sachs shall consent to participate in a special arbitration (“Arbitration”)  
5 for the exclusive purpose of arbitrating any Eligible Investor’s consequential damages claim arising  
6 from their inability to sell Eligible ARS. Goldman Sachs shall have provided written notice to  
7 Eligible Investors of the terms of the Arbitration process on or before November 12, 2008.

8 35. The Arbitration shall be conducted by a single public arbitrator (as defined by  
9 section 12100(u) of the NASD Code of Arbitration Procedures for Customer Disputes, eff.  
10 April 16, 2007), under the auspices of FINRA. Goldman Sachs will pay all applicable forum and  
11 filing fees. Any Eligible Investors who choose to pursue such claims in the Arbitration shall bear  
12 the burden of proving that they suffered consequential damages and that such damages were caused  
13 by their inability to access funds invested in Eligible Auction Rate Securities.

14 36. In the Arbitration, Goldman Sachs shall be permitted to defend itself against such  
15 claims; provided, however, that Goldman Sachs shall not contest in these arbitrations liability  
16 related to the sale of auction rate securities, or use as part of its defense any decision by an Eligible  
17 Investor not to borrow money from Goldman Sachs.

18 37. Eligible Investors seeking consequential damages who elect to use the special  
19 arbitration process provided for herein shall not be eligible for punitive or special damages.

20 38. Eligible Investors who elect to utilize the special arbitration process set forth above  
21 are limited to the remedies available in that process and may not bring or pursue a claim against  
22 Goldman Sachs or in any case where Goldman Sachs is an underwriter relating to Eligible Auction  
23 Rate Securities in another forum.

### 24 **Institutional Investors**

25 39. Goldman Sachs shall endeavor to work with issuers and other interested parties,  
26 including regulatory and governmental entities, to expeditiously provide liquidity solutions for

1 institutional investors not covered by paragraph 23 above that purchased auction rate securities  
2 from Goldman Sachs prior to February 11, 2008 (“Institutional Investors”).

3 40. Beginning November 12, 2008, and within 45 days of the end of each Goldman  
4 Sachs fiscal quarter thereafter, Goldman Sachs shall have submitted a written report to the Illinois  
5 Securities Department or other representative specified by the North American Securities  
6 Administrators Association (“NASAA”) outlining Goldman Sachs’ progress with respect to its  
7 obligations pursuant to this Order. Goldman Sachs shall have, at the option of the Illinois  
8 Securities Department or other representative specified by NASAA, conferred with such  
9 representative on a quarterly basis to discuss Goldman Sachs’ progress to date. Such quarterly  
10 reports and conferences shall have continued until December 31, 2009. Following every quarterly  
11 report, the representative shall have advised Goldman Sachs of any concerns regarding Goldman  
12 Sachs’ progress, and, in response, Goldman Sachs shall have discussed how Goldman Sachs plans  
13 to address such concerns. The reporting or meeting deadlines may be amended with written  
14 permission from the Illinois Securities Department or other representative specified by NASAA.

15 **Relief for Municipal Issuers**

16 41. Goldman Sachs shall promptly refund to municipal issuers refinancing fees paid to  
17 Goldman Sachs for the refinancing or conversion of their auction rate securities that occurred  
18 between February 11, 2008, and the date of this Order, where Goldman Sachs acted as underwriter  
19 for the initial primary offering of the auction rate securities between August 1, 2007, and  
20 February 11, 2008. Nothing in this Order precludes the Commissioner from pursuing any other  
21 civil action that may arise with regard to auction rate securities other than the marketing and sale of  
22 auction rate securities to retail investors.

23 42. Goldman Sachs agrees to waive any right to indemnification and/or claims of  
24 contribution, and/or other similar remedies with respect to any costs, expenses, or losses in  
25 connection with this Order that Goldman Sachs may have against any municipal issuers that issued  
26 securities through Goldman Sachs in the primary market, including any student loan authority.

1 **Additional Considerations**

2 43. Nothing herein shall preclude Vermont, its departments, agencies, boards,  
3 commissions, authorities, political subdivisions and corporations, other than the Commissioner and  
4 only to the extent set forth in paragraph 17 above (collectively, "State Entities"), and the officers,  
5 agents or employees of State Entities from asserting any claims, causes of action, or applications  
6 for compensatory, nominal and/or punitive damages, administrative, civil, criminal, or injunctive  
7 relief against Goldman Sachs in connection with certain auction rate securities practices at  
8 Goldman Sachs.

9 44. This Order shall not disqualify Goldman Sachs or any of its affiliates or current or  
10 former employees from any business that they otherwise are qualified or licensed to perform under  
11 applicable state law and this Order is not intended to form the basis for any disqualification.

12 45. To the extent applicable, this Order hereby waives any disqualification from relying  
13 upon the registration exemptions or registration safe harbor provisions that may be contained in the  
14 federal securities laws, the rules and regulations thereunder, the rules and regulations of self  
15 regulatory organizations or any states' or U.S. Territories' securities laws. In addition, this Order  
16 is not intended to form the basis for any such disqualifications. In addition, this Order is not  
17 intended to form the basis of a statutory disqualification under Section 3(a)(39) of the Securities  
18 Exchange Act of 1934.

19 46. Except in an action by the Commissioner to enforce the obligations of Goldman  
20 Sachs in this Order, this Order may neither be deemed nor used as an admission of or evidence of  
21 any alleged fault, omission, or liability of Goldman Sachs in any civil, criminal, arbitration, or  
22 administrative proceeding in any court, administrative agency, or tribunal. For any person or entity  
23 not a party to this Order, this Order does not limit or create any private right against Goldman  
24 Sachs including, without limitation with respect to the use of any e-mails or other documents of  
25 Goldman Sachs or of others concerning the marketing and/or sales of auction rate securities, limit  
26 or create liability of Goldman Sachs, or limit or create defenses of Goldman Sachs to any claims.

1           47.     This Order and any dispute related thereto shall be construed and enforced in  
2 accordance with, and governed by, the laws of the state of Vermont without regard to any choice of  
3 law principles.

4           48.     Evidence of a violation of this Order proven in a court of competent jurisdiction  
5 shall constitute prima facie proof of a violation of the Act in any civil action or proceeding  
6 hereafter commenced by the Commissioner against Goldman Sachs.

7           49.     Should the Commissioner prove in a court of competent jurisdiction that a material  
8 breach of this Order by Goldman Sachs has occurred, Goldman Sachs shall pay to BISHCA the  
9 cost, if any, of such determination and of enforcing this Order including without limitation legal  
10 fees, expenses, and court costs.

11          50.     If Goldman Sachs fails to make the payment specified in paragraph 21, the  
12 Commissioner may, at her sole discretion, pursue any legal remedies, including but not limited to  
13 initiating an action to enforce the Order, revoking Goldman Sachs' registration within the state, or  
14 terminating this Order.

15          51.     If in any proceeding, after notice and opportunity for a hearing, a court of competent  
16 jurisdiction, including an administrative proceeding by a state securities administrator, finds that  
17 there was a material breach of this Order, the Commissioner, at her sole discretion, may terminate  
18 the Order. If Goldman Sachs defaults on any other obligation under this Order, the Commissioner  
19 may, at her sole discretion, pursue legal remedies to enforce the Order or pursue an administrative  
20 action, including but not limited an action to revoke Goldman Sachs' registration within the state.  
21 Goldman Sachs agrees that any statute of limitations or other time related defenses applicable to  
22 the subject of the Order and any claims arising from or relating thereto are tolled from and after the  
23 date of this Order. In the event of such termination, Goldman Sachs expressly agrees and  
24 acknowledges that this Order shall in no way bar or otherwise preclude the Commissioner from  
25 commencing, conducting, or prosecuting any investigation, action, or proceeding, however  
26 denominated, related to the Order, against Goldman Sachs, or from using in any way any

1 statements, documents, or other materials produced or provided by Goldman Sachs prior to or after  
2 the date of this Order, including, without limitation, such statements, documents, or other  
3 materials, if any, provided for purposes of settlement negotiations, except as may otherwise be  
4 provided in a written agreement with the Commissioner.

5 52. Goldman Sachs shall cooperate fully and promptly with the Commissioner and shall  
6 use its best efforts to ensure that all the current and former officers, directors, trustees, agents,  
7 members, partners, and employees of Goldman Sachs (and of any of Goldman Sachs' parent  
8 companies, subsidiaries, or affiliates) cooperate fully and promptly with the Commissioner in any  
9 pending or subsequently initiated investigation, litigation, or other proceeding relating to auction  
10 rate securities and/or the subject matter of the Order. Such cooperation shall include, without  
11 limitation, and on a best efforts basis:

12 (a) production, voluntarily and without service of subpoena, upon the request of  
13 the Commissioner, of all documents or other tangible evidence requested by the  
14 Commissioner and any compilations or summaries of information or data that the  
15 Commissioner requests that Goldman Sachs (or the Goldman Sachs' parent companies,  
16 subsidiaries, or affiliates) prepare, except to the extent such production would require the  
17 disclosure of information protected by the attorney-client and/or work product privileges;

18 (b) without the necessity of a subpoena, having the current (and making all  
19 reasonable efforts to cause the former) officers, directors, trustees, agents, members,  
20 partners, and employees of Goldman Sachs (and of any of the Goldman Sachs' parent  
21 companies, subsidiaries, or affiliates) attend any Proceedings (as hereinafter defined) in  
22 Vermont or elsewhere at which the presence of any such persons is requested by the  
23 Commissioner and having such current (and making all reasonable efforts to cause the  
24 former) officers, directors, trustees, agents, members, partners, and employees answer any  
25 and all inquiries that may be put by the Commissioner to any of them at any proceedings or  
26 otherwise, except to the extent such production would require the disclosure of information

1 protected by the attorney-client and/or work product privileges; "Proceedings" include, but  
2 are not limited to, any meetings, interviews, depositions, hearings, trials, grand jury  
3 proceedings, or other proceedings;

4 (c) fully, fairly, and truthfully disclosing all information and producing all  
5 records and other evidence in its possession, custody, or control (or the possession, custody,  
6 or control of the Goldman Sachs parent companies, subsidiaries, or affiliates) relevant to all  
7 inquiries made by the Commissioner concerning the subject matter of the Order, except to  
8 the extent such inquiries call for the disclosure of information protected by the attorney-  
9 client and/or work product privileges; and

10 (d) making outside counsel reasonably available to provide comprehensive  
11 presentations concerning any internal investigation relating to all matters in the Order and  
12 to answer questions, except to the extent such presentations or questions call for the  
13 disclosure of information protected by the attorney-client and/or work product privileges.

14 53. In the event Goldman Sachs fails to comply with paragraph 23 of the Order, the  
15 Commissioner shall be entitled to specific performance, in addition to any other available  
16 remedies.

17 54. The Commissioner has agreed to the terms of this Order based on, among other  
18 things, the representations made to the Commissioner by Goldman Sachs, its counsel, and the  
19 Commissioner's own factual investigation. To the extent that any material representations are later  
20 found to be materially inaccurate or misleading, this Order is voidable by the Commissioner in her  
21 sole discretion.

22 Dated this 27<sup>th</sup> day of April, 2010.

23  
24 BY ORDER OF THE COMMISSIONER

25   
26 PAULETTE J. THABAULT, Commissioner

Vermont Department of Banking, Insurance,  
Securities and Health Care Administration

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1 **CONSENT TO ENTRY OF ADMINISTRATIVE ORDER BY**  
2 **GOLDMAN, SACHS & CO.**

3 Goldman, Sachs & Co. ("Goldman Sachs") hereby acknowledges that it has been served  
4 with a copy of this Consent Order, has read the foregoing Order, is aware of its right to a hearing  
5 and appeal in this matter, and has waived the same.

6 Goldman Sachs admits the jurisdiction of the Commissioner, neither admits nor denies the  
7 Findings of Fact and Conclusions of Law contained in this Order, and consents to entry of this  
8 Order by the Commissioner as settlement of the issues contained in this Order.

9 Goldman Sachs states that no promise of any kind or nature whatsoever was made to it to  
10 induce it to enter into this Order and that it has entered into this Order voluntarily.

11 Norman Feit represents that he/she is a Managing Director of Goldman  
12 Sachs and that, as such, has been authorized by Goldman Sachs to enter into this Order for and on  
13 behalf of Goldman Sachs.

14 DATED this 22nd day of April, 2010.

15 GOLDMAN, SACHS & CO.

16 By: [Signature]

17 Title: Managing Director, legal

18 STATE OF New York )

19 County of New York )

20 SUBSCRIBED AND SWORN TO before me this 22nd day of April, 2010.

21 Norma A. Gerald  
22 Notary Public

23 My commission expires:

24 **NORMA A. GERALD**  
25 **NOTARY PUBLIC-STATE OF NEW YORK**  
26 **No. 01GE6192086**  
**Qualified In Kings County**  
**My Commission Expires August 15, 2012**