Prospectus Supplement to the Prospectus dated December 5, 2006.

1,750,000 Normal APEX

Goldman Sachs Capital II

5.793% Fixed-to-Floating Rate Normal APEX
(with a liquidation amount of $1,000 per security)
fully and unconditionally guaranteed, to the extent described herein, by

The Goldman Sachs Group, Inc.

We, The Goldman Sachs Group, Inc., will own all of the outstanding Trust Common Securities of the Goldman Sachs Capital II, a Delaware statutory trust and will fully and unconditionally guarantee, on a junior subordinated basis, payment of amounts due on 5.793% Fixed-to-Floating Rate Normal Automatic Preferred Enhanced Capital Securities to the extent described in this prospectus supplement. The Normal APEX are beneficial interests in the Trust. Your financial entitlements as a holder of Normal APEX generally will correspond to the Trust's financial entitlements as a holder of the corresponding assets. The corresponding assets for each Normal APEX, with a $1,000 liquidation amount, initially will be $1,000 principal amount of our Remarketable 5.593% Junior Subordinated Notes due 2043, and a 1/100th, or $1,000, interest in a stock purchase contract between us and the Trust. Under the Contracts, the Trust agrees to purchase, and we agree to sell, on the stock purchase date, one share of our perpetual Non-Cumulative Preferred Stock, Series E, with a liquidation preference of $100,000 per share for $100,000 and we agree to make contract payments to the Trust. The Trust will pass through to you amounts that it receives on the corresponding assets for the Normal APEX as distributions on, or the redemption price of, Normal APEX.

The Trust will pledge the Notes and their proceeds to secure its obligation to pay the purchase price under the Contracts. We expect the stock purchase date to be June 1, 2012 but in certain circumstances it may occur on an earlier date or as late as June 1, 2013. From and after the stock purchase date, the corresponding asset for each Normal APEX will be a 1/100th, or $1,000, interest in one share of Preferred.

Assuming that we do not elect to defer contract payments or interest payments on the Notes or to pay partial dividends or to skip dividends on the Preferred, holders of Normal APEX will receive distributions on the $1,000 liquidation amount per Normal APEX:

- from May 15, 2007 through the later of June 1, 2012 and the stock purchase date, at a rate *per annum* of 5.793%, payable semi-annually on each June 1 and December 1 (and on the stock purchase date, if not a June 1 or December 1), commencing December 1, 2007 (or, if any such day is not a business day, on the next business day), and
- thereafter at a rate *per annum* equal to the greater of (x) three-month LIBOR for the related distribution period *plus* 0.7675% and (y) 4.000%, payable quarterly on each March 1, June 1, September 1 and December 1 (or if any such date is not a business day, on the next business day).

Distributions on the Normal APEX will be cumulative through the stock purchase date and non-cumulative thereafter.

The Normal APEX are perpetual and the Trust will redeem them only to the extent we redeem the Preferred or, prior to the stock purchase date, if we redeem the Notes upon the occurrence of certain special events. The Preferred by its terms is redeemable by us at our option on any date on or after the later of June 1, 2012 and the stock purchase date. Any redemption is subject to the prior approval of the Securities and Exchange Commission, as well as to our commitments in the Replacement Capital Covenant described in this prospectus supplement. Unless the SEC agrees otherwise in writing, we will redeem the Preferred only if it is replaced with other "allowable capital" within the meaning of the SEC's rules applicable to consolidated supervised entities — for example, other common stock or another series of perpetual non-cumulative preferred stock. For a further discussion on redemption, see "Description of the Series E Preferred Stock — Redemption" on page S-93.

Holders may exchange Normal APEX and U.S. treasury securities having a $1,000 principal amount per Normal APEX for like amounts of Stripped APEX and Capital APEX, which are also beneficial interests in the Trust. Each Stripped APEX corresponds to a 1/100th interest in a Contract and $1,000 principal amount of U.S. treasury securities, and each Capital APEX corresponds to $1,000 principal amount of Notes.

Repayment of the Normal APEX and the Notes is not protected by any Federal agency or by the Securities Investor Protection Corporation.

Application will be made to list the Normal APEX on the New York Stock Exchange under the symbol "GS/PE." Trading of the Normal APEX on the Exchange is expected to commence within a 30-day period after the initial delivery of the Normal APEX.

Your investment in the Normal APEX involves risks. You should read "Risk Factors Specific to Your APEX" beginning on page S-25 before buying the Normal APEX, so that you may better understand those risks.

Neither the Securities and Exchange Commission nor any other regulatory body has approved or disapproved of these securities or passed on the accuracy or adequacy of this prospectus supplement. Any representation to the contrary is a criminal offense.

	Per Normal APEX	Total (1)(2)
Initial public offering price	$1,000	$1,750,000,000
Underwriting commissions	(2)	(2)
Proceeds, before expenses and commissions, to us	$1,000	$1,750,000,000

(1) The initial public offering price does not include accrued distributions, if any, on the Normal APEX from May 15, 2007 to the date of delivery. Distributions on the Normal APEX will accrue from May 15, 2007 and must be paid by the purchaser if the Normal APEX are delivered after May 15, 2007.

(2) In view of the fact that the proceeds of the sale of the Normal APEX will be invested in the Notes, we have agreed to pay the underwriters, as compensation for arranging the investment therein of such proceeds, $15 per Normal APEX (or $26,250,000 in the aggregate). See "Underwriting" on page S-113.

The underwriters expect to deliver the Normal APEX in book-entry form only through the facilities of The Depository Trust Company against payment on May 15, 2007.

We and our affiliates may use this prospectus supplement and the accompanying prospectus in the initial sale of the Normal APEX, and in market-making transactions in the Normal APEX, Stripped APEX and Capital APEX after the initial sale of the Normal APEX. Unless you are otherwise informed in the confirmation of sale, this prospectus supplement and the accompanying prospectus is being used in a market-making transaction.

Goldman, Sachs & Co.

BNP PARIBAS
CastleOak Securities, L.P.
Daiwa Securities SMBC Europe
HSBC
JPMorgan
Santander Investment
UTENDAHL CAPITAL PARTNERS, L.P.
Wells Fargo Securities

BNY Capital Markets, Inc.
Citi
Guzman & Company
HVB Capital Markets
Ramirez & Co., Inc.
SunTrust Robinson Humphrey
Wachovia Securities

Prospectus Supplement dated May 8, 2007.

SUMMARY INFORMATION

This summary highlights information contained elsewhere in this prospectus supplement and in the accompanying prospectus. This summary is not complete and does not contain all the information that you should consider before investing in the APEX. You should carefully read this entire prospectus supplement and the accompanying prospectus, especially the risks of investing in the APEX discussed in this prospectus supplement and the accompany prospectus.

References to "Goldman Sachs" or the "Firm" in this prospectus supplement mean The Goldman Sachs Group, Inc., together with its consolidated subsidiaries and affiliates; references to "GS Group," "we," "our" or similar terms mean The Goldman Sachs Group, Inc.; and references to the "Trust" mean Goldman Sachs Capital II. Unless indicated otherwise, as used in this prospectus supplement, "APEX" will include all three series of the APEX: Normal APEX, Stripped APEX and Capital APEX. The series of APEX sold in this offering are the 5.793% Fixed-to-Floating Rate Normal Automatic Preferred Enhanced Capital Securities, or "Normal APEX." Also, references to "holders" of the APEX mean The Depository Trust Company or its nominee and not indirect owners who own beneficial interests in APEX through participants in The Depository Trust Company or other entities unless otherwise stated. Please review the special considerations that apply to indirect owners in this prospectus supplement under "Book-Entry System" on page S-101 and in the accompanying prospectus under "Legal Ownership and Book-Entry Issuance."

The terms described here supplement those described in the accompanying prospectus, and if the terms described here are inconsistent with those described there, the terms described in this prospectus supplement are controlling.

The Trust

Goldman Sachs Capital II, or the "*Trust*," is a Delaware statutory trust organized under Delaware law by the trustees and us. The Trust will be used solely for the following purposes:

- issuing the Automatic Preferred Enhanced Capital Securities, or "*APEX*" and common securities issued concurrently by the Trust to us, or "*Trust Common Securities*," and together with the APEX, the *"Trust securities,"* representing beneficial interests in the Trust;
- investing the gross proceeds of the APEX and the Trust Common Securities in Remarketable 5.593% Junior Subordinated Notes due 2043, or "*Notes*";
- entering into and holding the contracts, or "*Contracts*," for the Trust to purchase shares of our perpetual Non-Cumulative Preferred Stock, Series E, with a liquidation preference of $100,000 per share, or "*Preferred*," from us on a date, or "*Stock Purchase Date*," that we expect to be June 1, 2012 but may in certain circumstances be an earlier date or be deferred for quarterly periods until as late as June 1, 2013;
- holding Notes and certain U.S. treasury securities, and pledging them to secure the Trust's obligations under the Contracts;
- purchasing shares of the Preferred pursuant to the Contracts on the Stock Purchase Date and holding it thereafter;
- selling Notes in a Remarketing or an Early Remarketing; and
- engaging in other activities that are directly related to the activities described above.

The Trust's business and affairs will be conducted by its trustees, each appointed by us as sponsor of the Trust. The trustees will be The Bank of New York, as the "*Property Trustee*," The Bank of New York (Delaware), as the "*Delaware Trustee*," and two or more individual trustees, or "*administrative trustees*," who are employees or officers of or affiliated with us.

The principal executive office of the Trust is c/o The Goldman Sachs Group, Inc., 85 Broad Street, New York, New York 10004, and the Trust's telephone number is (212) 902-1000.

Questions and Answers

This summary includes questions and answers that highlight selected information from this prospectus supplement to help you understand the APEX, the Notes and the Preferred.

What are the APEX?

APEX and the Trust Common Securities represent beneficial interests in the Trust. The Trust's assets consist solely of:

- Notes issued by us to the Trust;
- Contracts;
- certain U.S. treasury securities:
    - to the extent holders exchange Normal APEX and U.S. treasury securities for Stripped APEX and Capital APEX, as described under "What are Stripped APEX and Capital APEX, and how can I Exchange Normal APEX for Stripped APEX and Capital APEX?" on page S-7; or
    - after a successful Remarketing of the Notes; and
- after the Stock Purchase Date, shares of the Preferred.

Each holder of APEX will have a beneficial interest in the Trust but will not own any specific Note, Contract, U.S. treasury security or share of the Preferred. However, the Trust Agreement under which the Trust operates defines the financial entitlements of each series of APEX that represents a beneficial interest in the Trust in a manner that causes those financial entitlements to correspond to the financial entitlements of the Trust in the assets of the Trust that are the "*corresponding assets*" for such series.

The Trust will issue the APEX in three series that will correspond to different assets of the Trust: Normal APEX, Stripped APEX and Capital APEX. Each series of APEX will have a liquidation amount of $1,000. At completion of this offering, the only beneficial interests in the Trust that will be outstanding are the Normal APEX and the Trust Common Securities. The two other series of APEX that the Trust may issue, "*Stripped APEX*" and "*Capital APEX*," may be issued only in connection with an exchange for Normal APEX as described under "What are Stripped APEX and Capital APEX, and how can I Exchange Normal APEX for Stripped APEX and Capital APEX?" on page S-7.

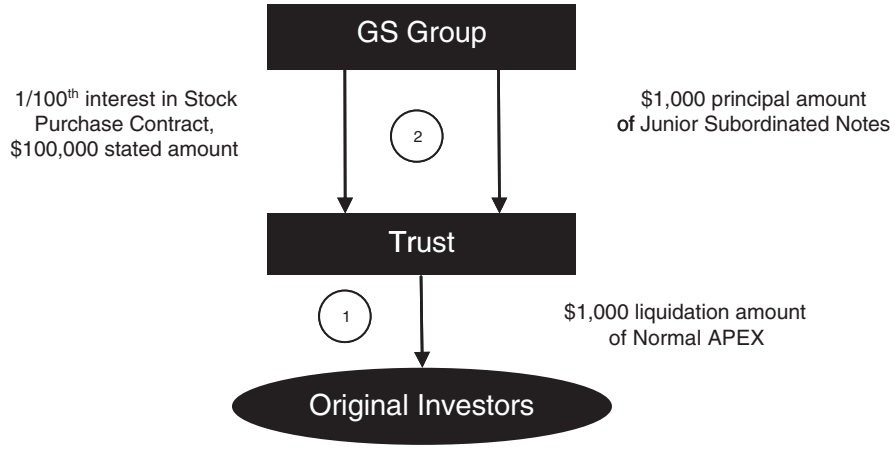
The series of APEX sold in this offering are the Normal APEX and each Normal APEX represents a beneficial interest in the Trust initially corresponding to the following Trust assets:

- a 1/100th interest in a Contract under which the Trust agrees to purchase, and we agree to sell, for $100,000, a share of the Preferred on the Stock Purchase Date, and
- a Note with a principal amount of $1,000, which the Trust will pledge to us to secure its obligations under the Contract.

After the Stock Purchase Date, each Normal APEX will correspond to 1/100th of a share of Preferred held by the Trust.

The following diagram shows the transactions that will happen on the day that the Trust issues the Normal APEX in this offering:

Initial Issuance



1) Investors purchase Normal APEX, each with a $1,000 liquidation amount, from the Trust, which corresponds to $1,000 principal amount of Notes and a 1/100th interest in a Contract having a stated amount of $100,000.

2) The Trust purchases Notes from GS Group and enters into the Contracts with GS Group. The Trust pledges the Notes to GS Group to secure its obligation to purchase Preferred on the Stock Purchase Date.

After the offering, you will have the right to exchange your Normal APEX and certain U.S. treasury securities for Stripped APEX and Capital APEX by substituting pledged U.S. treasury securities for the pledged Notes. You will be able to exercise this right on any business day until the Stock Purchase Date, other than on a day in the fifteen-calendar-day period leading up to and including a March 1, June 1, September 1 or December 1 or from 3:00 P.M., New York City time, on the second business day before the beginning of any Remarketing Period and until the business day after the end of that Remarketing Period. You will also not be able to exercise this right at any time after a successful Remarketing. We refer to periods during which exchanges are permitted as "*Exchange Periods*" and we explain how Remarketing works and when it may occur under "What is a Remarketing?" on page S-14.

A "*business day*" means any day other than a Saturday, Sunday or any other day on which banking institutions and trust companies in New York, New York are permitted or required by any applicable law to close.

Each Stripped APEX will be a beneficial interest in the Trust corresponding to a 1/100th interest in a Contract and the substituted U.S. treasury securities, and each Capital APEX will be a beneficial interest in the Trust corresponding to a Note with a $1,000 principal amount. We describe the exchange process for the Stripped APEX and Capital APEX in more detail under "What are Stripped APEX and Capital APEX, and how can I Exchange Normal APEX for Stripped APEX and Capital APEX?" on page S-7.

What are the Stock Purchase Contracts?

Each Contract consists of an obligation of the Trust to purchase, and of us to sell, a share of our Preferred on the Stock Purchase Date for $100,000, as well as our obligation to pay periodic contract payments, or "*Contract Payments*," to the Trust as described below. To secure its obligation under each Contract to purchase a share of Preferred from us on the Stock Purchase Date, the Trust will

pledge either Notes (which after the Remarketing Settlement Date will be replaced by certain U.S. treasury securities) or Qualifying Treasury Securities with an aggregate principal amount equal to the stated amount of $100,000 of the corresponding Contract.

We will make Contract Payments on each Regular Distribution Date through the Stock Purchase Date at a rate equal to 0.200% *per annum* of the stated amount of $100,000 per Contract. We explain what the Regular Distribution Dates are under "What distributions or payments will be made to holders of the Normal APEX, Stripped APEX and Capital APEX?" on page S-9. The Trust will distribute these Contract Payments when received to each holder of Normal APEX and Stripped APEX in an amount equal to 1/100th of each Contract Payment received on a Contract for each Normal APEX or Stripped APEX. We may defer the Contract Payments. If we defer any of these payments, we will accrue interest on the deferred amounts at the initial rate equal to 5.593% *per annum* applicable to the Notes. We will pay the deferred amounts on the Stock Purchase Date to the Trust in the form of junior subordinated notes ("*Additional Notes*"), as described under "When can the Trust defer or skip distributions on the APEX?" on page S-11. The Trust will in turn distribute each payment of interest on, or principal of, these Additional Notes to the holders of Normal APEX and Stripped APEX, as received.

What are the basic terms of the Junior Subordinated Notes?

Maturity and Redemption. The maturity date of the Notes will be June 1, 2043 or on such earlier date on or after June 1, 2016 as we may elect in connection with the Remarketing. We may from time to time redeem Notes, in whole or in part, at any date on or after June 1, 2016, at a redemption price equal to 100% of the principal amount thereof, *plus* accrued and unpaid interest, including deferred interest (if any), to the date of redemption. In connection with a Remarketing, we may change the date after which we may redeem Notes to a later date or change the redemption price; *provided* that no redemption price may be less than the principal *plus* accrued and unpaid interest (including additional interest) on the Notes.

We may also redeem all, but not less than all, of the Notes prior to June 1, 2016 upon the occurrence of certain special events. The redemption price of the Notes in the case of a redemption in connection with a rating agency event or tax event will be equal to the greater of 100% of their principal amount and a make-whole redemption price *plus* accrued and unpaid interest through the date of redemption. The redemption price of the Notes in the case of a redemption in connection with a capital treatment or investment company event will be equal to 100% of their principal amount *plus* accrued and unpaid interest through the date of redemption. If we redeem the Notes prior to the Stock Purchase Date, the Contracts will terminate automatically and the Trust will redeem the APEX. Holders of Normal APEX and Capital APEX will receive an amount in cash equal to the redemption price of the Notes that are corresponding assets of their APEX and holders of Stripped APEX will receive the Qualifying Treasury Securities that are corresponding assets of their Stripped APEX. Holders of Normal APEX and Stripped APEX will also receive accrued and unpaid Contract Payments through the date of redemption with respect to their beneficial interests in Contracts that are corresponding assets of the applicable series of APEX.

Subordination. Our obligations to pay interest and premium (if any) on, and principal of, the Notes are subordinate and junior in right of payment and upon liquidation to all our senior and subordinated indebtedness, including all of our indebtedness for money borrowed, including junior subordinated debt securities underlying our trust preferred securities currently outstanding, indebtedness evidenced by bonds, debentures, notes or similar instruments, whether existing now or in the future, and all amendments, renewals, extensions, modifications and refundings or obligations of that kind, but not including trade accounts payable and accrued liabilities arising in the ordinary course of business, which will rank equally in right of payment and upon liquidation with the Notes, and other debt securities and guarantees that by their terms are not superior in right of payment to the Notes. Our obligations to pay interest and premium (if any) on, and principal of, the Notes will rank *pari passu* with our obligations in respect of our Pari Passu Securities.

"*Pari Passu Securities*" means: indebtedness that, among other things, by its terms ranks equally with the Notes in right of payment and upon liquidation and guarantees of such indebtedness. We refer to our obligations to which the Notes are subordinate as our "*senior and subordinated debt*." All liabilities of our subsidiaries including trade accounts payable and accrued liabilities arising in the ordinary course of business are effectively senior to the Notes to the extent of the assets of such subsidiaries. As of February 23, 2007, we had outstanding, including accrued interest, approximately $215 billion of senior and subordinated indebtedness, including indebtedness of our subsidiaries, that ranks senior to the Notes. Because of the subordination, if we become insolvent, holders of senior and subordinated debt may receive more, ratably, and holders of the Notes having a claim pursuant to those securities may receive less, ratably, than our other creditors. This type of subordination will not prevent an event of default from occurring under the Indenture in connection with the Notes. Our Indenture does not limit the amount of additional senior and subordinated indebtedness we may incur. We expect from time to time to incur additional indebtedness and other obligations constituting senior and subordinated debt. As described under "What is an Early Remarketing?" on page S-18, after the first Remarketing attempt in an Early Remarketing, we may remarket the Notes as senior or subordinated debt.

Interest Payments. We will pay interest on the Notes semi-annually on each June 1 and December 1, commencing December 1, 2007 (or, if any such day is not a business day, on the next business day), at a rate equal to 5.593% *per annum.* We will also pay interest on the Notes on the Stock Purchase Date, if not otherwise an interest payment date, if they have not been successfully remarketed prior thereto, as described under "What is a Remarketing?" on page S-14. We will have the right under the Indenture to defer the payment of interest on the Notes at any time, or from time to time, as described under "When can the Trust defer or skip distributions on the APEX? — Interest on the Junior Subordinated Notes" on page S-12. If any date on which interest is payable on the Notes is not a business day, then payment of the interest payable on that date will be made on the next succeeding day that is a business day. However, no interest or other payment shall be paid in respect of the delay.

If on the Stock Purchase Date any interest accrued on the Notes has not been paid in cash and there is a Failed Remarketing, we will pay the Trust the deferred interest on the Stock Purchase Date in the form of Additional Notes, as described under "When can the Trust defer or skip distributions on the APEX?" on page S-11. The Trust will in turn distribute each payment of interest on, or principal of, these Additional Notes to the holders of Normal APEX and Capital APEX as received.

Events of Default. If an event of default under the Indenture occurs and continues, the Indenture Trustee or the holders of at least 25% in aggregate principal amount of the outstanding Notes may declare the entire principal and all accrued but unpaid interest of all Notes to be due and payable immediately. If the Indenture Trustee or the holders of Notes do not make such declaration and the Notes are beneficially owned by the Trust or a trustee of the Trust, the Property Trustee or the holders of at least 25% in aggregate liquidation amount of the Capital APEX and the Normal APEX (if such default occurs prior to the Stock Purchase Date or if earlier, the Remarketing Settlement Date) shall have such right.

An "*event of default*," when used in the Indenture, means any of the following:

- non-payment of interest for 30 days after deferral for 14 or more consecutive semi-annual interest periods or the equivalent thereof, in the event that interest periods are other than semi-annual (which deferral may extend beyond June 1, 2014);
- termination of the Trust without redemption of the APEX, distribution of the Notes to holders of the Capital APEX and, if such termination occurs prior to the Stock Purchase Date, or if earlier, the Remarketing Settlement Date, to the holders of the Normal APEX; or
- certain events of bankruptcy or insolvency of GS Group, whether voluntary or not.

Events of default do not include the breach of any other covenant in the Notes or the Indenture and, accordingly, the breach of any other covenant would not entitle the Indenture Trustee or holders of the Notes to declare the Notes due and payable.

Pledge of Junior Subordinated Notes. The Trust will pledge the Notes with a principal amount equal to the aggregate liquidation amount of the Normal APEX and Trust Common Securities to secure its obligations under the Contracts. After the creation of Stripped APEX and Capital APEX, the Trust will also hold Notes that are not pledged with an aggregate principal amount equal to the liquidation amount of the Capital APEX. The pledged Notes and related Contracts are corresponding assets for Normal APEX and Trust Common Securities, and the Notes that are not pledged are corresponding assets for the Capital APEX. U.S. Bank National Association will hold the pledged Notes and Qualifying Treasury Securities as collateral agent, or "*Collateral Agent*," for us and the Additional Notes, if any, as custodial agent, or "*Custodial Agent*," for the Trust.

What are the basic terms of the Series E Preferred Stock?

The holder of the shares of Preferred after the Stock Purchase Date will be the Trust unless the Trust is dissolved. The Trust, as the sole holder of the shares of Preferred so long as the Normal APEX are outstanding, will make distributions on the Normal APEX out of the dividends if declared by GS Group's board of directors (or a duly authorized committee of the board) received on the shares of Preferred.

Dividend Rate. Any dividends on shares of Preferred will be calculated (a) if the shares of Preferred are issued prior to June 1, 2012, at a rate equal to 5.793% *per annum* until June 1, 2012, and (b) thereafter, at a rate *per annum* that will reset quarterly and will equal the greater of (i) three-month LIBOR for the related Dividend Period, *plus* 0.7675% and (ii) 4.000%. Any dividends will be calculated prior to June 1, 2012 based on a 360-day year consisting of twelve 30-day months and thereafter based on the actual number of days in the Dividend Period using a 360-day year.

Dividend Payment Dates. The Dividend Payment Dates for the Preferred, or "*Dividend Payment Dates*," are (a) if the shares of Preferred are issued prior to June 1, 2012, June 1 and December 1 of each year until June 1, 2012, and (b) thereafter, March 1, June 1, September 1 and December 1 of each year, commencing on the first such date following the Stock Purchase Date. If a Dividend Payment Date prior to June 1, 2012 is not a business day, the applicable dividend shall be paid on the first business day following that day without adjustment.

Declaration of Dividends, etc. Holders of shares of Preferred will be entitled to receive non-cumulative cash dividends, only when, as and if declared by GS Group's board of directors (or a duly authorized committee of the board), payable at the applicable dividend rate applied to the liquidation preference amount per share, calculated on each share of Preferred from the Stock Purchase Date.

Redemption. The Preferred is not redeemable prior to the later of June 1, 2012 and the Stock Purchase Date. On that date or on any date after that date (but subject to the limitations described below under "Replacement Capital Covenant"), the Preferred is redeemable at GS Group's option, in whole or in part, at a redemption price equal to $100,000 per share, *plus* any declared and unpaid dividends, without regard to any undeclared dividends. The Preferred will not be subject to any sinking fund or other obligation of GS Group to redeem, repurchase or retire the Preferred. If the Trust is the holder of the Preferred at such redemption, it may also redeem the Normal APEX as described in "What is the maturity of the APEX, and may the Trust redeem the APEX?" on page S-13.

Our right to redeem or repurchase shares of the Preferred is subject to important limitations, including the following:

- We may not redeem the Preferred unless we have received the prior approval of the Securities and Exchange Commission ("*SEC*"). Moreover, unless the SEC authorizes us to do otherwise in writing, we will redeem the Preferred only if it is replaced with other Allowable Capital in accordance with SEC's rules applicable to consolidated supervised

entities, or "*CSE Rules*" — for example, common stock or another series of perpetual non-cumulative preferred stock.

- We are making a covenant in favor of certain debtholders limiting, among other things, our right to redeem or repurchase shares of Preferred, as described under "What is the maturity of the APEX, and may the Trust redeem the APEX?" on page S-13.

See "Risk Factors Specific to Your APEX — Additional Risks Related to the Normal APEX after the Stock Purchase Date — Holders Should Not Expect GS Group to Redeem the Series E Preferred Stock on the Date it First Becomes Redeemable or on Any Particular Date After it Becomes Redeemable" on page S-30.

Ranking. The Preferred will rank senior to GS Group's Junior Stock (including our common stock and any other class of stock that ranks junior to the Preferred either as to the payment of dividends or as to the distribution of assets upon any liquidation, dissolution or winding up) with respect to the payment of dividends and distributions upon liquidation, dissolution or winding up, equally with our previously issued Floating Rate Non-Cumulative Preferred Stock, Series A, with a liquidation preference of $25,000 per share ("*Series A Preferred Stock*"), 6.20% Non-Cumulative Preferred Stock, Series B, with a liquidation preference of $25,000 per share ("*Series B Preferred Stock*"), Floating Rate Non-Cumulative Preferred Stock, Series C, with a liquidation preference of $25,000 per share ("*Series C Preferred Stock*"), and Floating Rate Non-Cumulative Preferred Stock, Series D, with a liquidation preference of $25,000 per share ("*Series D Preferred Stock*"), and at least equally with each other series of our preferred stock we may issue (except for any senior series that may be issued with the requisite consent of the holders of the Preferred and any other series of preferred stock entitled to vote thereon), with respect to the payment of dividends and distributions upon liquidation, dissolution or winding up. We will generally be able to pay dividends and distributions upon liquidation, dissolution or winding up only out of lawfully available funds for such payment (*i.e.*, after taking account of all indebtedness and other non-equity claims).

Liquidation Preference. Upon any voluntary or involuntary liquidation, dissolution or winding up of GS Group, holders of shares of the Preferred are entitled to receive out of assets of GS Group available for distribution to stockholders, before any distribution of assets is made to holders of our common stock or of any other shares of our stock ranking junior as to such a distribution to the Preferred, a liquidating distribution in the amount of $100,000 per share, *plus* any declared and unpaid dividends, without accumulation of any undeclared dividends. Distributions will be made only to the extent of GS Group's assets that are available after satisfaction of all liabilities to creditors, if any (*pro rata* as to the Preferred and any other shares of our stock ranking equally as to such distribution).

Voting Rights. Holders of the Preferred will have no voting rights, except as described under "Description of the Series E Preferred Stock — Voting Rights" on page S-95. Holders of Normal APEX must act through the Property Trustee to exercise any voting rights.

Maturity. The Preferred does not have any maturity date, and GS Group is not required to redeem the Preferred. Accordingly, the Preferred will remain outstanding indefinitely, unless and until GS Group decides to redeem it. GS Group may not redeem the Preferred without receiving the prior approval of the SEC.

Preemptive Rights. Holders of shares of Preferred will have no preemptive rights.

What are Stripped APEX and Capital APEX, and how can I Exchange Normal APEX for Stripped APEX and Capital APEX?

After the offering, you may consider it beneficial either to hold Capital APEX, which correspond only to Notes but not to Contracts, or to realize income from their sale. These investment choices are facilitated by exchanging Normal APEX and certain U.S. treasury securities for Stripped APEX and Capital APEX. At your option, at any time during an Exchange Period, you may elect to exchange Normal APEX for Stripped APEX and Capital APEX by substituting certain U.S. treasury securities,

which we refer to as "*Qualifying Treasury Securities*," for the pledged Notes. See "Description of the APEX — Exchanging Normal APEX and Qualifying Treasury Securities for Stripped APEX and Capital APEX" on page S-37. The Trust will pledge the substituted Qualifying Treasury Securities to secure its obligations under the Contracts corresponding to the Stripped APEX, and the Collateral Agent will release the pledged Notes from the pledge, but they will continue to be property of the Trust corresponding to the Capital APEX.

Each Stripped APEX will have a liquidation amount of $1,000 and will initially be a beneficial interest in the Trust corresponding to:

- a 1/100th interest in a Contract; and
- a Qualifying Treasury Security having a principal amount of $1,000 and maturing at least one business day prior to December 1, 2007 (for the period to such date if Stripped APEX are outstanding before such date) and thereafter the next succeeding March 1, June 1, September 1 or December 1.

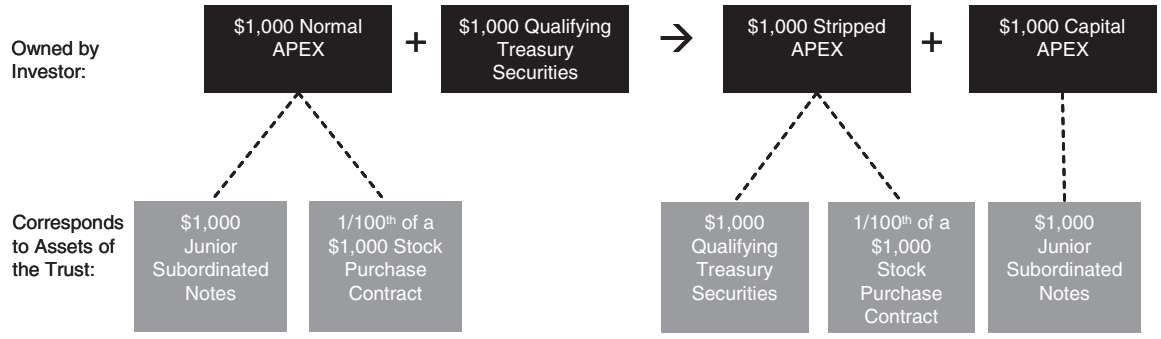
On the Stock Purchase Date, the Trust will use the proceeds of the Qualifying Treasury Securities to satisfy its obligations under the Contracts corresponding to the Stripped APEX, as a result of which each Stripped APEX, like each Normal APEX, will represent a 1/100th interest in a share of Preferred held by the Trust. On the next business day, each Stripped APEX will automatically, without any action by holders being necessary, be and become a Normal APEX with the same liquidation amount. If, however, there has been a Failed Remarketing, as described under "What happens if the Remarketing Agent cannot remarket the Junior Subordinated Notes for settlement on or before May 1, 2013?" on page S-19, and we have paid deferred interest on the Notes on the Stock Purchase Date in Additional Notes, as described under "When can the Trust defer or skip distributions on the APEX?" on page S-11, the Stripped APEX will not become Normal APEX until we have paid all amounts due on these Additional Notes.

Each Capital APEX will have a liquidation amount of $1,000 and will represent a beneficial interest in the Trust corresponding to a Note with a principal amount of $1,000. The Trust will not pledge the Notes that are the corresponding assets for the Capital APEX to secure its obligations under the Contracts.

After you have exchanged Normal APEX and Qualifying Treasury Securities for Stripped APEX and Capital APEX, you may exchange them back into Normal APEX during any Exchange Period. In that event, Notes having a principal amount equal to the liquidation amount of the Capital APEX will be substituted under the pledge for the same principal amount of Qualifying Treasury Securities, which will be released from the pledge and delivered to you. If you elect to exchange Normal APEX and Qualifying Treasury Securities for Stripped APEX and Capital APEX, or *vice versa*, you will be responsible for any related fees or expenses incurred by the Trust, the Collateral Agent, the Custodial Agent or the Transfer Agent.

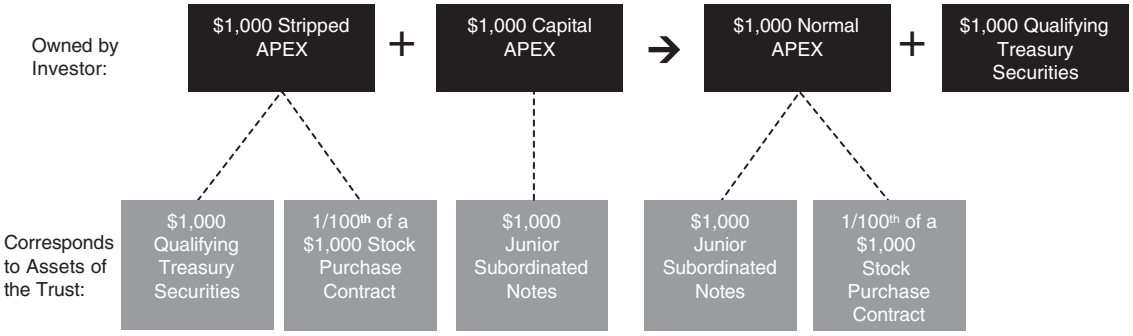
The following diagrams illustrate the exchange of Normal APEX and Qualifying Treasury Securities for Stripped APEX and Capital APEX and *vice versa*:

Exchange of Normal APEX and Qualifying Treasury Securities for Stripped APEX and Capital APEX



- Investor delivers $1,000 liquidation amount of Normal APEX and $1,000 principal amount of Qualifying Treasury Securities
- Investor receives $1,000 liquidation amount of Stripped APEX and $1,000 liquidation amount of Capital APEX

Exchange of Stripped APEX and Capital APEX for Normal APEX and Qualifying Treasury Securities



- Investor delivers $1,000 liquidation amount of Stripped APEX and $1,000 liquidation amount of Capital APEX
- Investor receives $1,000 liquidation amount of Normal APEX and $1,000 principal amount of Qualifying Treasury Securities

What distributions or payments will be made to holders of the Normal APEX, Stripped APEX and Capital APEX?

General. The Normal APEX, Stripped APEX and Capital APEX are beneficial interests in the Trust, with the financial entitlements of each such series corresponding to the financial entitlements of the Trust in the corresponding assets for such series. Accordingly, the Trust will make distributions on Normal APEX, Stripped APEX and Capital APEX only when and to the extent it has funds on hand available to make such distributions from receipt of payments on the corresponding assets for each respective series. Similarly, if we exercise our right to defer payment of interest on the Notes or Contract Payments, or to pay partial dividends or skip dividends on the Preferred once issued, the Trust will defer or pay partial or skip corresponding distributions on the Normal APEX, Stripped APEX and Capital APEX, as applicable.

The distribution dates for Normal APEX and Stripped APEX, which we call "*Regular Distribution Dates*," are:

- each June 1 and December 1 occurring prior to and including the later of June 1, 2012 and the Stock Purchase Date, commencing December 1, 2007 (or in the case of Stripped APEX, the first such date on which Stripped APEX are outstanding) (or, if any such day is not a business day, the next business day);
- after the later of June 1, 2012 and the Stock Purchase Date, each March 1, June 1, September 1 and December 1, or if any such date is not a business day, the next business day; and
- the Stock Purchase Date if not otherwise a Regular Distribution Date;

provided that, the last Regular Distribution Date for the Stripped APEX shall be the Stock Purchase Date.

The distribution dates for Capital APEX, which we call "*Capital APEX Distribution Dates*," are:

- each June 1 and December 1, commencing on the later of the first such date on which Capital APEX are outstanding and December 1, 2007 and continuing through and including the last such date to occur prior to the Remarketing Settlement Date (or, if any such day is not a business day, the next business day); and
- thereafter for so long as Capital APEX remain outstanding, each day that is an interest payment date for the Notes.

Also, prior to the Stock Purchase Date, the Trust will make additional distributions on the Stripped APEX relating to the Qualifying Treasury Securities quarterly on each March 1, June 1, September 1 and December 1, or if any such date is not a business day, the next business day, which we call "*Additional Distribution Dates*," or as promptly thereafter as the Collateral Agent and the paying agent determine to be practicable, commencing on the later of the first such day after Stripped APEX are outstanding and December 1, 2007.

We use the term "*Distribution Date*" to mean a Regular Distribution Date, a Capital APEX Distribution Date or an Additional Distribution Date. A "*Distribution Period*" is (i) with respect to Normal APEX, Stripped APEX and Trust Common Securities, each period of time beginning on a Regular Distribution Date (or the date of original issuance in the case of the Distribution Period ending in December 2007) and continuing to but not including the next succeeding Regular Distribution Date for such series; and (ii) with respect to Capital APEX, each period of time beginning on a Capital APEX Distribution Date (or the date of original issuance of the APEX in the case of the Distribution Period ending in December 2007) and continuing to but not including the next succeeding Capital APEX Distribution Date. When a Distribution Date is not a business day, the Trust will make the distribution on the next business day without interest.

Distributions made for periods prior to the later of June 1, 2012 and the Stock Purchase Date will be calculated on the basis of a 360-day year consisting of twelve 30-day months, and distributions for periods beginning on or after such date will be calculated on the basis of a 360-day year and the number of days actually elapsed.

Normal APEX. Distributions on Normal APEX will be payable on each Regular Distribution Date:

- from December 1, 2007 through the later of June 1, 2012 and the Stock Purchase Date, accruing at a rate equal to 5.793% *per annum* for each Distribution Period ending prior to such date, and thereafter accruing at a rate *per annum* equal to the greater of (i) three-month LIBOR for such Distribution Period, *plus* 0.7675% and (ii) 4.000%; and
- on a cumulative basis for each Regular Distribution Date to and including the Stock Purchase Date and on a non-cumulative basis thereafter.

The distributions paid on any Regular Distribution Date will include any additional amounts or deferred interest amounts received by the Trust on the Notes or deferred Contract Payments received by the Trust on Contracts, in each case that are corresponding assets for the Normal APEX, as well as payments of interest on and principal of any Additional Notes we issue to the Trust on the Stock Purchase Date in respect of deferred interest on the Notes or deferred Contract Payments. See "When can the Trust defer or skip distributions on the APEX?" on page S-11.

Stripped APEX. Distributions on Stripped APEX will be payable on each Regular Distribution Date on or prior to the Stock Purchase Date:

- at a rate of 0.200% *per annum*, accruing for each Stripped APEX from the Regular Distribution Date immediately preceding its issuance, and
- on a cumulative basis.

The distributions paid on any Regular Distribution Date will include any deferred Contract Payments received by the Trust on Contracts that are corresponding assets for the Stripped APEX. The Trust will also distribute to holders of Stripped APEX a *pro rata* portion of each payment received in respect of interest on or principal of any Additional Notes we issue to the Trust on the Stock Purchase Date in respect of deferred Contract Payments.

Additionally, on each Additional Distribution Date (or as promptly thereafter as the Collateral Agent and the paying agent determine to be practicable), each holder of Stripped APEX will also receive a *pro rata* distribution from the Trust of the amount by which the proceeds of the Qualifying Treasury Securities pledged by the Trust in respect of Contracts maturing at least one business day prior to such date exceed the amount required to purchase replacement Qualifying Treasury Securities. We refer to these distributions as "*Excess Proceeds Distributions*."

Capital APEX. Distributions on Capital APEX will be payable on each Capital APEX Distribution Date prior to the Stock Purchase Date at a rate of 5.593% *per annum*, accruing for each Capital APEX from the Capital APEX Distribution Date immediately preceding its issuance.

If we successfully remarket the Notes as described under "What is a Remarketing?" on page S-14 and you do not elect to dispose of your Capital APEX in connection with the Remarketing, any changes we make to the interest rate and interest payment dates for the Notes will be reflected in the distribution rate and distribution payment dates applicable to the Capital APEX. The Trust will redeem the Capital APEX in exchange for Notes promptly after the Remarketing Settlement Date.

On and after the Remarketing Settlement Date (if the redemption described above has not been completed) or in the event of a Failed Remarketing, the Stock Purchase Date, holders of Capital APEX will be entitled to receive distributions on the dates and in the amounts that we pay interest on the Notes, as described under "What are the basic terms of the Junior Subordinated Notes?" on page S-4. The distributions paid on any Capital APEX Distribution Date will include any additional amounts or deferred interest amounts received by the Trust on the Notes that are corresponding assets for the Capital APEX, as well as payments of interest on and principal of any Additional Notes we issue to the Trust on the Stock Purchase Date in respect of deferred interest on the Notes in the event of a Failed Remarketing.

When can the Trust defer or skip distributions on the APEX?

The Trust will make distributions on each series of APEX only to the extent it has received payments on the corresponding assets of such series — that is, interest payments on the Notes, Contract Payments on the Contracts and dividends on the Preferred. Accordingly, the Trust will defer or skip distributions on any series of APEX whenever we are deferring or skipping payments on the assets that correspond to that series. Thus, if we are deferring Contract Payments at any time prior to the Stock Purchase Date, the Trust will defer that portion of the distributions on the Normal APEX and Stripped APEX that corresponds to the Contract Payments.

Similarly, if we are deferring interest payments on the Notes, the Trust will defer that portion of the distributions on the Normal APEX (prior to the Remarketing Settlement Date) that corresponds to the interest payments, and will defer the distributions on the Capital APEX. If we skip any dividend payment on the shares of the Preferred, the Trust will skip the corresponding distribution on Normal APEX after the Stock Purchase Date. The Trust will not be entitled to defer Excess Proceeds Distributions on the Stripped APEX. The Trust will not make a distribution on the Normal APEX on any Distribution Date to the extent we do not declare and pay a dividend on the Preferred, and you will have no entitlement to receive these distributions at a later date.

Stock Purchase Contracts. We may at our option, and will if so directed by the SEC, defer Contract Payments at any time and from time to time. We may elect, and will elect if so directed by the SEC, to defer payments on more than one occasion. Deferred Contract Payments will accrue interest until paid, compounded on each Regular Distribution Date, at a rate equal to 5.593% *per annum*. If we elect to defer Contract Payments on the Contracts, then we will pay the Trust the deferred Contract Payments on the Stock Purchase Date in Additional Notes.

The Additional Notes will:

(1) have a principal amount equal to the aggregate amount of deferred Contract Payments as of the Stock Purchase Date;

(2) mature on the later of June 1, 2017 and five years after commencement of the related deferral period;

(3) bear interest at a rate equal to 5.593% *per annum*;

(4) be subordinate and rank junior in right of payment to all of our senior and subordinated debt on the same basis as the Contract Payments; and

(5) permit us to optionally defer interest on the same basis as the Notes and be redeemable by us at any time prior to their stated maturity.

The Additional Notes will be issued as a new series of notes under our subordinated debt indenture described under “Description of the Junior Subordinated Notes” on page S-65.

Interest on the Junior Subordinated Notes. We may at our option, and will if so directed by the SEC, defer the interest payments due on the Notes at any time and from time to time. We may elect to defer interest payments on more than one occasion. Deferred interest will accrue additional interest, compounded on each Regular Distribution Date, from the relevant interest payment date during any deferral period, at the rate borne by the Notes at such time, to the extent permitted by applicable law. We may not defer interest payments that we are otherwise obligated to pay in cash for any period of time that exceeds seven years with respect to any deferral period or that extends beyond the maturity date of the Notes. If on the Stock Purchase Date any interest accrued on the Notes has not been paid in cash and there is a Failed Remarketing, then we will pay the Trust the deferred interest on the Stock Purchase Date in the form of Additional Notes.

Restrictions Resulting from a Deferral. Subject to certain exceptions, as described under “Description of the Junior Subordinated Notes — Restrictions on Certain Payments, including on Deferral of Interest” on page S-75, during any period in which we defer interest payments on the Notes or Contract Payments on the Contracts, including any period prior to the payment in full of any Additional Notes, in general we cannot:

- declare or pay any dividends or distributions on, or redeem, purchase, acquire or make a liquidation payment with respect to, any shares of our capital stock;
- make any interest, principal or premium payment on, or repay, repurchase or redeem, any of our debt securities that rank equally with or junior to the Notes, except that in connection

with a Failed Remarketing we may pay interest in Additional Notes and we may repurchase Notes in exchange for Preferred; or

- make any payment on any guarantee that ranks equal or junior to our Guarantee related to the APEX.

If we exercise our right to defer payments of stated interest on the Notes, we intend to treat the Notes as reissued, solely for U.S. federal income tax purposes, with original issue discount, and you would generally be required to accrue such original issue discount as ordinary income using a constant yield method prescribed by Treasury regulations. As a result, the income that you would be required to accrue would exceed the interest payments that you would actually receive. See "Supplemental U.S. Federal Income Tax Considerations" on page S-103.

Dividends on the Series E Preferred Stock. In the event dividends are not declared by GS Group's board of directors (or a duly authorized committee of the board) on the shares of Preferred for payment on any Dividend Payment Date, then such dividends shall not be cumulative and shall cease to accrue and be payable. If our board of directors (or a duly authorized committee of the board) has not declared a dividend before the Dividend Payment Date for any Dividend Period, we will have no obligation to pay dividends accrued on the Preferred for such Dividend Period after the Dividend Payment Date for that Dividend Period, whether or not dividends on the Preferred are declared for any future Dividend Period. So long as any share of Preferred remains outstanding, no dividend shall be paid or declared on our common stock or any of our other securities ranking junior to the Preferred (other than a dividend payable solely in common stock or in such junior securities), and no common stock or other securities ranking junior to the Preferred shall be purchased, redeemed or otherwise acquired for consideration by us, directly or indirectly (other than as a result of a reclassification of such junior securities for or into other junior securities, or the exchange or conversion of one share of such junior securities for or into another share of such junior securities), during a Dividend Period, unless the full dividends for the latest completed Dividend Period on all outstanding shares of Preferred have been declared and paid, or declared and a sum sufficient for the payment thereof has been set aside. However, the foregoing provision shall not restrict the ability of Goldman, Sachs & Co., or any of our other affiliates, to engage in any market-making transactions in our Junior Stock in the ordinary course of business.

When dividends are not paid in full upon the shares of Preferred and any shares of other classes or series of our securities that rank equally with the Preferred (in the payment of dividends or in the distribution of assets on any liquidation, dissolution or winding up of GS Group) for a Dividend Period, all dividends declared with respect to shares of Preferred and all such equally ranking securities for such Dividend Period shall be declared *pro rata* so that the respective amounts of such dividends shall bear the same ratio to each other as all accrued but unpaid dividends per share on the shares of Preferred for such Dividend Period and all such equally ranking securities for such Dividend Period bear to each other.

Subject to the foregoing, such dividends (payable in cash, stock or otherwise) as may be determined by GS Group's board of directors (or a duly authorized committee of the board) may be declared and paid on our common stock and any other securities ranking equally with or junior to the Preferred from time to time out of any funds legally available for such payment, and a share of the Preferred shall not be entitled to participate in any such dividend.

What is the maturity of the APEX, and may the Trust redeem the APEX?

The APEX have no stated maturity. The Trust must redeem the Normal APEX upon redemption of the Preferred and it must redeem the Capital APEX in kind in exchange for Notes or for cash (if you have so elected) in connection with a successful Remarketing. The consequences of an unsuccessful Remarketing are described under "Are there limitations on our or the Trust's right to redeem or repurchase the APEX?" on page S-22. The redemption price of each APEX will equal the redemption price of the corresponding assets. The redemption price of the Preferred is described under "What are

the basic terms of the Series E Preferred Stock? — Redemption" page S-6. The Property Trustee will give not less than 30 days' (or not less than 15 days' in the case of a redemption in kind after a successful Remarketing) nor more than 60 days' notice of redemption by mail to holders of the APEX.

The Notes will mature on June 1, 2043 or on such earlier date on or after June 1, 2016 as we may elect in connection with the Remarketing. We may from time to time redeem the Notes, in whole or in part, at any date on or after June 1, 2016, at a redemption price equal to 100% of the principal amount thereof *plus* accrued and unpaid interest, including deferred interest (if any), to the date of redemption. In connection with a Remarketing, we may change the date after which we may redeem the Notes to a later date or change the redemption price. If we are deferring interest on the Notes at the time of the Remarketing, however, we may not elect a redemption date that is earlier than seven years after commencement of the deferral period. We will give not less than 30 days' nor more than 60 days' notice of redemption by mail to holders of the Notes. We may not redeem the Notes in part if the principal amount has been accelerated and such acceleration has not been rescinded or unless all accrued and unpaid interest has been paid in full on all outstanding Notes for all interest periods terminating on or before the redemption date. Subject to the limitations described above, we may move the maturity date of the Notes in connection with a Remarketing to any date that is on or after June 1, 2016.

We may also redeem all, but not less than all, of the Notes prior to June 1, 2016 upon the occurrence of certain special events. The redemption price of the Notes in the case of a redemption in connection with a rating agency event or tax event will be equal to the greater of 100% of their principal amount and a make-whole redemption price *plus* accrued and unpaid interest through the date of redemption. The redemption price of the Notes in the case of a redemption in connection with a capital treatment or investment company event will be equal to 100% of their principal amount *plus* accrued and unpaid interest through the date of redemption. If we redeem the Notes prior to the Stock Purchase Date, the Contracts will terminate automatically and the Trust will redeem the APEX. Holders of Normal APEX and Capital APEX will receive an amount in cash equal to the redemption price of the Notes that are corresponding assets of their APEX and holders of Stripped APEX will receive the Qualifying Treasury Securities that are corresponding assets of their Stripped APEX. Holders of Normal APEX and Stripped APEX will also receive accrued and unpaid Contract Payments through the date of redemption with respect to their beneficial interests in Contracts that are corresponding assets of the relevant series of APEX, *plus* the Stock Purchase Contract make-whole amount as described on page S-61.

Our right to redeem the Notes prior to the Stock Purchase Date is subject to important limitations, including the following:

- We may not redeem the Notes prior to the Stock Purchase Date unless we have received prior approval by the SEC. Moreover, unless the SEC authorizes us to do otherwise in writing, we will redeem the Notes prior to the Stock Purchase Date only if they are replaced with other Allowable Capital in accordance with the SEC's CSE Rules — for example, common stock or another series of perpetual non-cumulative preferred stock.
- We are making a covenant in favor of certain debtholders limiting, among other things, our right to redeem Notes prior to the Stock Purchase Date, as described under "What is the maturity of the APEX, and may the Trust redeem the APEX?" page S-13.

What is a Remarketing?

For each Normal APEX, the Trust will pledge $1,000 principal amount of Notes to secure its obligation to pay the purchase price for 1/100th of a share of the Preferred on the Stock Purchase Date. To provide the Trust with the funds necessary to pay the purchase price of the Preferred under the Contracts, the Trust will attempt to sell the Notes in a process we call a "*Remarketing*." Each Remarketing will occur during a "*Remarketing Period*" that begins on the seventh business day immediately preceding a February 8, May 1, August 1, or November 1 and continues for five business

days or until a successful Remarketing occurs, if earlier, with the related Remarketing (if successful) settling on such February 8, May 1, August 1, or November 1. That date is the "*Remarketing Settlement Date*" for the related Remarketing Period. Unless an Early Settlement Event shall have occurred as described under "What is an Early Remarketing?" on page S-18, the first Remarketing Period will begin on the seventh business day immediately preceding May 1, 2012.

As a holder of Normal APEX, you are not required to take any action in connection with a Remarketing but you may elect during any Exchange Period prior to such Remarketing to exchange your Normal APEX for Stripped APEX and Capital APEX if the Remarketing is successful. If you do so, Notes having a principal amount equal to the liquidation amount of your Normal APEX will be excluded from the Remarketing. To make this election, you will also be required to deliver Qualifying Treasury Securities in the same principal amount to the Collateral Agent prior to the Remarketing. Upon a successful Remarketing, the Trust will receive the net proceeds of the pledged Notes sold in the Remarketing and will use them to acquire certain U.S. treasury securities. These U.S. treasury securities will be substituted for the pledged Notes and will provide the Trust with sufficient cash on the Stock Purchase Date to purchase the shares of Preferred and to make a payment to holders of Normal APEX (other than those making the election described above) in the amount they would have received in respect of interest accrued on the Notes through the Stock Purchase Date had they not been successfully remarketed and the interest rate not been reset as described below. If we are deferring interest on the Notes at the time of a successful Remarketing, the Remarketing proceeds invested in U.S. treasury securities will also enable the Trust to make a cash payment to holders of the Normal APEX on the Stock Purchase Date in the amount of the accrued and unpaid interest on the Notes.

If you hold Capital APEX and elect to dispose of them in the event of a successful Remarketing as described below, your Capital APEX will be redeemed for cash out of the proceeds of the Remarketing. If you do not make this election, your Capital APEX will be redeemed in exchange for Notes promptly after the Remarketing Settlement Date.

We, on behalf of the Trust, will enter into a remarketing agreement, or "*Remarketing Agreement*," with a nationally recognized investment bank, which may include Goldman, Sachs & Co. or any of our other affiliates, as remarketing agent, or "*Remarketing Agent*," which will agree to use its commercially reasonable efforts as Remarketing Agent to sell the Notes included in the Remarketing at a price that results in proceeds, net of any remarketing fee, of at least 100% of their Remarketing Value.

The "*Remarketing Value*" of each Note will be equal to a value determined on the Remarketing Settlement Date of an amount of U.S. treasury securities that will pay, on or prior to the Stock Purchase Date, an amount of cash equal to the principal amount of, *plus* the interest payable on, such Note on the next Regular Distribution Date, including any deferred interest. For purposes of determining the Remarketing Value, we will assume, even if not true, that the interest rate on the Notes remains at the interest rate in effect immediately prior to the Remarketing and all accrued and unpaid interest on the Notes is paid in cash on such date. To obtain that value, the Remarketing Agent may reset the interest rate on the Notes to a new fixed rate, or "*Reset Rate*," or to a new floating rate equal to an index, *plus* a spread, or "*Reset Spread*," that will apply to all outstanding Notes, whether or not included in the Remarketing, and will become effective on the Remarketing Settlement Date. If we elect a floating rate, we also have the option to change the interest payment dates and manner of calculation of interest on the Notes to correspond with the market conventions applicable to notes bearing interest at a rate based on the applicable index. The Notes will bear interest at the new rate from and after the Remarketing Settlement Date.

As noted above, if you hold Normal APEX and prefer to retain your economic interest in the Notes represented by your Normal APEX if a Remarketing is successful, you may elect to exchange them for Stripped APEX and Capital APEX. To make this election you must, by 3:00 P.M., New York City time, on the second business day before the beginning of any Remarketing Period, deliver your Normal APEX to the Transfer Agent and, for each Normal APEX, deliver $1,000 principal amount of

Qualifying Treasury Securities to the Collateral Agent, all as described in "Description of the APEX — Remarketing of the Junior Subordinated Notes — Normal APEX" on page S-44. If the Remarketing is successful, on the Remarketing Settlement Date, the Qualifying Treasury Securities you delivered will be substituted under the pledge for the Notes, you will be deemed to have exchanged your Normal APEX for Stripped APEX and Capital APEX, your Normal APEX will be cancelled and the Stripped APEX and Capital APEX will be delivered to you. If the Remarketing is unsuccessful, your Normal APEX and Qualifying Treasury Securities will be returned to you.

If you hold Capital APEX, you may elect to dispose of them in connection with the Remarketing, as a result of which you will receive an amount in cash equal to the Remarketing Value of the corresponding Notes on the Remarketing Settlement Date if the Remarketing is successful. To make this election, you must deliver your Capital APEX to the Transfer Agent by 3:00 P.M., New York City time, on the second business day before the beginning of any Remarketing Period, as described in "Description of the APEX — Remarketing of the Junior Subordinated Notes — Capital APEX" on page S-45. If the Remarketing is not successful, your Capital APEX will be returned to you. Since distributions on the Capital APEX correspond to the interest rate on the Notes, the new interest rate established in a successful Remarketing will also apply to any Capital APEX that are not disposed of in connection with the Remarketing.

The Reset Rate or Reset Spread will be determined in the Remarketing such that the proceeds from the Remarketing, net of any remarketing fee, will be at least 100% of the Remarketing Value; *provided* that the Reset Rate may not exceed the Fixed Rate Reset Cap or the Reset Spread may not exceed the Floating Rate Reset Cap, as applicable, in connection with the first four Remarketing Periods. The "*Fixed Rate Reset Cap*" will be the prevailing market yield, as determined by the Remarketing Agent, of the benchmark U.S. treasury security having a remaining maturity that most closely corresponds to the period from such date until the earliest date on which the Notes may be redeemed at our option in the event of a successful Remarketing, *plus* 350 basis points, or 3.500% *per annum*, and the "*Floating Rate Reset Cap*," which the Reset Spread may not exceed, will be 300 basis points, or 3.000% *per annum.*

In connection with a Remarketing, we may elect:

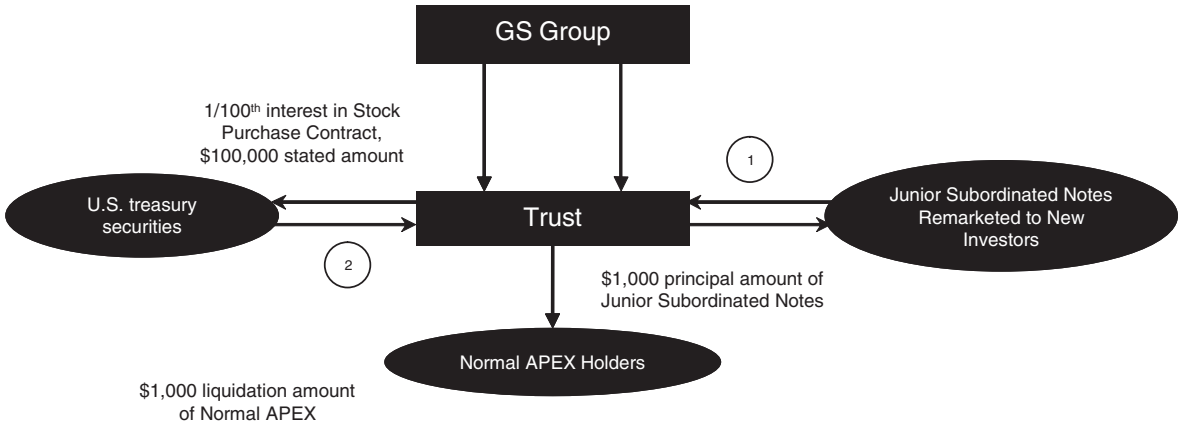
- to change the date after which the Notes will be redeemable at our option to any date on or after June 1, 2016 and to change the redemption price; *provided* that no redemption price may be less than the principal, *plus* accrued and unpaid interest (including additional interest) on the Notes, or
- to move the maturity date of the Notes up to any date on or after June 1, 2016;

provided that, if we are deferring interest on the Notes at the time of the Remarketing, we may not elect or specify an optional redemption date that is earlier than seven years after commencement of the deferral period.

Each Remarketing Period will last for five consecutive business days. On any day other than the last day of a Remarketing Period, we will have the right, in our absolute discretion and without prior notice to the holders of the APEX, to postpone the Remarketing until the following business day.

The following diagram shows the principal features of a Remarketing:

Remarketing Period
About One Month Prior to Stock Purchase Date



(1) The Notes owned by the Trust and pledged to GS Group are remarketed to new investors.

(2) Net proceeds from the Remarketing are invested in certain U.S. treasury securities that will provide sufficient proceeds to purchase the shares of Preferred under the Contracts and, combined with the final semi-annual Contract Payment on the Contracts, make the final semi-annual payment due to holders of the Normal APEX on the Stock Purchase Date at a rate equal to 5.793% *per annum* of the $1,000 liquidation amount per Normal APEX.

What happens if the first Remarketing is not successful?

If the Remarketing Agent cannot remarket the Notes during the first Remarketing Period at a price that results in proceeds, net of any remarketing fee, of at least 100% of their Remarketing Value, then:

- the interest rate on the Notes will not be reset;
- the Notes will continue to bear interest at a rate equal to 5.593% *per annum*;
- the Remarketing Agent will attempt to establish a Reset Rate or Reset Spread meeting the requirements described under “What is a Remarketing?” on page S-14 and remarket the Notes in subsequent Remarketing Periods; and
- the subsequent Remarketing Periods shall begin on the seventh business day immediately preceding each of August 1, 2012, November 1, 2012, February 8, 2013 and May 1, 2013 (or if any such day is not a business day, the next business day), which date shall be the Remarketing Settlement Date in the event of a successful Remarketing.

Any Remarketing after the first Remarketing Period will be subject to the same conditions and procedures described under “What is a Remarketing?” on page S-14, except that if a successful Remarketing has not previously occurred and, as a result, the Remarketing Agent attempts a Remarketing beginning on the seventh business day immediately preceding May 1, 2013, the Reset Rate for that Remarketing will not be subject to the Fixed Rate Reset Cap or the Reset Spread for that Remarketing will not be subject to the Floating Rate Reset Cap, as applicable. In addition, if we have not completed the remarketing through the first four remarketing periods, then in connection with the fifth and last remarketing attempt, the Notes may, at our election, become senior or subordinated debt.

What is an Early Remarketing?

If an Early Settlement Event occurs, as described under "What is an Early Settlement Event?" below, the Remarketing process will be moved up such that the first Remarketing Period will begin on the seventh business day prior to the next February 8, May 1, August 1 and November 1, or if any such day is not a business day, the succeeding business day, that is at least 30 days after the occurrence of such Early Settlement Event.

We will conduct an "*Early Remarketing*" in which:

- the first Remarketing attempt will be on the basis that the Notes will be remarketed as deeply subordinated securities (*i.e.*, we will not have the option to elect to remarket them as senior notes) and be subject to the Fixed Rate Reset Cap or Floating Rate Reset Cap, as applicable;
- the second, third and fourth Remarketing attempts will be on the basis that the Junior Subordinated Notes will be subject to the Fixed Rate Reset Cap or Floating Rate Reset Cap, as applicable, but may, at our election, be remarketed as senior notes; and
- the fifth and last Remarketing attempt will be on the basis that the Notes will not be subject to the Fixed Rate Reset Cap or Floating Rate Reset Cap, as applicable, and may, at our election, be remarketed as senior notes.

If the first Remarketing attempt in an Early Remarketing is not successful, up to four additional attempts will be made beginning on the seventh business day prior to the next February 8, May 1, August 1 and November 1, or if any such day is not a business day, the succeeding business day, as applicable, immediately following the first Remarketing Period, which date shall be the Remarketing Settlement Date in the event of a successful Remarketing, and the Stock Purchase Date shall be the March 1, June 1, September 1 or December 1 immediately following the Remarketing Settlement Date or the final unsuccessful attempt, or on the next business day if not a business day. In the case of an Early Settlement Event resulting from the entry of an order for dissolution of the Trust by a court of competent jurisdiction, however, there shall be only one Remarketing Period and the Reset Rate shall not be subject to the Fixed Rate Reset Cap or the Reset Spread shall not be subject to the Floating Rate Reset Cap, as applicable. If that Remarketing is not successful, it shall be deemed a Failed Remarketing and the Stock Purchase Date shall be the next succeeding March 1, June 1, September 1 or December 1, or if such day is not a business day, the next succeeding business day.

What is an Early Settlement Event?

An "*Early Settlement Event*" shall be deemed to occur if:

- the SEC, in its capacity as consolidated supervisor, delivers to us a notice stating that it anticipates that the Firm's Allowable Capital, calculated in accordance with SEC's CSE Rules, may not be sufficient to support the Firm's businesses in the near term and directing the Firm to treat such notice as an Early Settlement Event; or
- the Trust is dissolved pursuant to the entry of an order for dissolution by a court of competent jurisdiction.

Since we became a CSE in April 2005, we have maintained Allowable Capital in excess of the levels required under the CSE Rules and we expect this to continue.

If I hold Capital APEX, may I dispose of them in a Remarketing?

If you hold Capital APEX, you may elect to dispose of your Capital APEX in the Remarketing. If you have so elected and the Remarketing is successful, you would then receive an amount equal to the Remarketing Value of the corresponding Notes on the Remarketing Settlement Date. You may wish to make this election if you think that you would not want to hold Capital APEX after the Remarketing because of the changes in the distribution rate and other terms that may occur as a

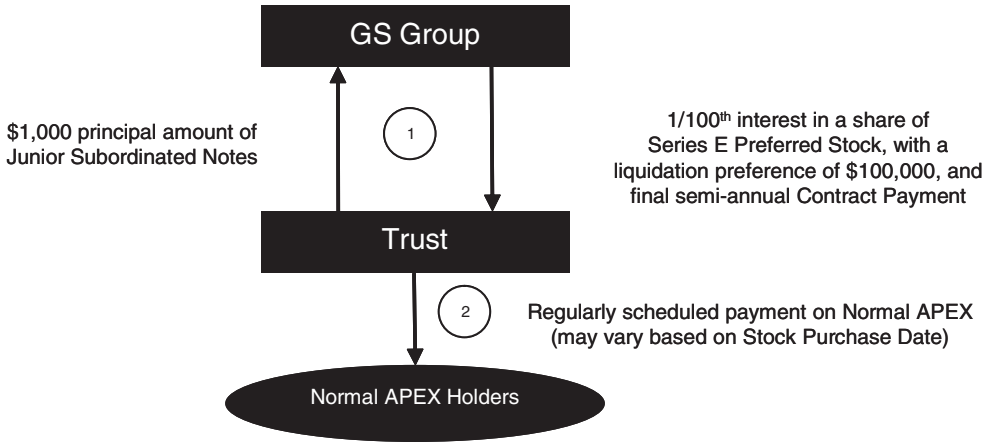
result of the Remarketing. To make this election, you must deliver your Capital APEX to the Transfer Agent for the APEX by 3:00 P.M., New York City time, on the second business day before the beginning of any Remarketing Period, as described in "Description of the APEX — Remarketing of the Junior Subordinated Notes — Capital APEX" on page S-45.

What happens if the Remarketing Agent cannot remarket the Junior Subordinated Notes for settlement on or before May 1, 2013?

If the Remarketing Agent fails to remarket the Notes successfully by the end of the fifth Remarketing Period, which except in an Early Remarketing would be the five-business-day period beginning on the seventh business day prior to May 1, 2013, the interest rate on the Notes will not be reset and they will continue to accrue interest at the interest rate that would otherwise apply. We refer to this situation as a "*Failed Remarketing*." In the event of a Failed Remarketing, we may move the maturity date of the Notes to any date on or after June 1, 2016; *provided* that if we are deferring interest on the Notes at the time of the Remarketing, we may not move the maturity date to a date that is earlier than seven years after commencement of the deferral period.

Following a Failed Remarketing, on the Stock Purchase Date we will exercise our rights as a secured party and, subject to applicable law, retain the Notes pledged to secure the Trust's obligations under the Contracts or their proceeds under the Collateral Agreement or sell them in one or more public or private sales. In either case, together with the application of the proceeds at maturity of any Qualifying Treasury Securities held by the Collateral Agent, this would satisfy the Trust's obligations under the Contracts in full and we would deliver the Preferred to the Trust. We will pay any accrued and unpaid interest not otherwise paid in cash on the Notes pledged to us by the Trust in Additional Notes. Holders of Normal APEX and Capital APEX will receive distributions corresponding to payments of principal of and interest on these Additional Notes received by the Trust.

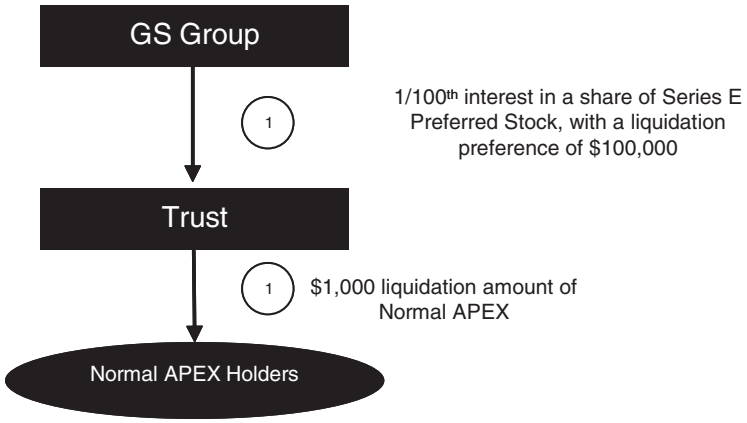
Stock Purchase Date — Settlement after Failed Remarketing



(1) If five Remarketing attempts fail, GS Group will exercise its rights under the Collateral Agreement either to retain the Notes or dispose of them and apply the proceeds from the sale of the Notes in settlement of the Contracts. In either case, the Trust's obligations under the Contracts will be satisfied in full and GS Group will deliver the shares of Preferred to the Trust and make a final semi-annual Contract Payment on the Contracts.

(2) The Trust uses the final semi-annual Contract Payment and the interest payment due on the Stock Purchase Date on the Notes to make a distribution to holders of the Normal APEX at a rate equal to 5.793% *per annum* of the $1,000 liquidation amount per Normal APEX, which is the initial combined distribution rate on the Normal APEX.

After the Settlement of the Stock Purchase Contracts



(1) After settlement of the Contracts on the Stock Purchase Date, for each $1,000 liquidation amount of Normal APEX and Stripped APEX the Trust will own 1/100th of a share of Preferred.

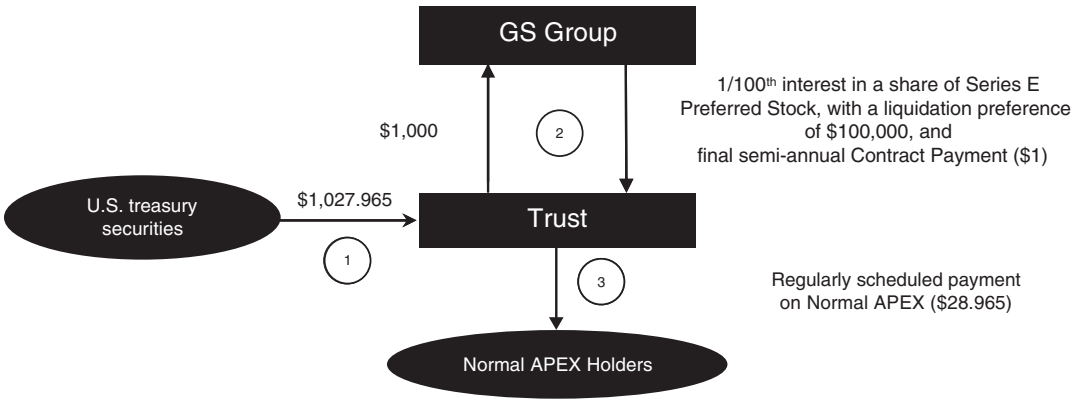
What happens on the Stock Purchase Date?

If there has been a successful Remarketing, on the Stock Purchase Date, a portion of the cash proceeds of the U.S. treasury securities purchased with the Remarketing proceeds and any Qualifying Treasury Securities, automatically will be applied towards satisfying the Trust's obligation to purchase shares of Preferred under the Contracts, and we will issue the shares of the Preferred to the Trust. The Trust will apply the remainder of the proceeds of the U.S. treasury securities purchased with the Remarketing proceeds and the Contract Payments to make the distributions due on the Regular Distribution Date to holders of Normal APEX and Stripped APEX. Whether or not there has been a successful Remarketing, holders will not be required to deliver any additional cash or securities to the Trust.

Each Stripped APEX will automatically, without any action by holders being necessary, be and become a Normal APEX on the business day immediately following the Stock Purchase Date, unless there has been a Failed Remarketing and we have issued Additional Notes to the Trust in respect of deferred interest on the Notes, in which case the Stripped APEX will only be and become Normal APEX on the business day after these Additional Notes have been redeemed and paid in full. The Normal APEX, and the Stripped APEX if then outstanding, will represent a beneficial interest in the Trust corresponding to 1/100th of a share of the Preferred. If we have issued Additional Notes to the Trust in respect of deferred interest on the Notes, the Normal APEX, but not the Stripped APEX, will also correspond to these Additional Notes. On the Stock Purchase Date, holders of the Normal APEX and the Stripped APEX will also receive the distributions described under "What distributions or payments will be made to holders of the Normal APEX, Stripped APEX and Capital APEX?" on page S-9.

The following diagrams show what happens on the Stock Purchase Date if there has been a successful Remarketing during the initially scheduled Remarketing Period for a proposed Remarketing Settlement Date in May 2012, as well as what assets of the Trust will correspond to after the Stock Purchase Date:

Stock Purchase Date



(1) The U.S. treasury securities purchased with the net proceeds of the Remarketing mature on or prior to the Stock Purchase Date.

(2) The Trust purchases the shares of the Preferred from GS Group for $100,000 per share under the Contracts using the proceeds at maturity of the Qualifying Treasury Securities. GS Group makes the final semi-annual Contract Payment to the Trust.

(3) The Trust uses the final semi-annual Contract Payment and the remainder of the proceeds of the U.S. treasury securities purchased with the net proceeds of the Remarketing to make a distribution to holders of the Normal APEX at a rate of 5.793% *per annum* of the $1,000 liquidation amount per Normal APEX, which is the initial combined distribution rate on the Normal APEX.

After settlement of the Contracts on the Stock Purchase Date, for each $1,000 liquidation amount of Normal APEX and Stripped APEX the Trust will own 1/100th of a share of the Preferred.

What happens to the Stock Purchase Contracts in the event of a bankruptcy or merger of GS Group?

The Contracts, our and the Trust's related rights and obligations under the Contracts, including the right and obligation to purchase shares of Preferred and the right to receive accrued Contract Payments, automatically will terminate upon our bankruptcy, insolvency or reorganization.

We will agree not to merge or consolidate with any other person unless the surviving corporation assumes our obligations under the Contracts and reserves sufficient authorized and unissued shares of preferred stock having substantially the same terms and conditions as the Preferred, such that the Trust will receive, on the Stock Purchase Date, preferred stock having substantially the same rights as the Preferred that it would have received had such merger or consolidation not occurred.

What is the ranking of the Trust's claims against GS Group either for the Contract Payments under the Stock Purchase Contracts or for interest or principal on the Junior Subordinated Notes, if GS Group were to become insolvent?

The Trust's claims against us for Contract Payments or for payments of principal and interest on the Notes are subordinated to our indebtedness for money borrowed, including any junior subordinated debt securities underlying trust preferred securities that are currently outstanding and other subordinated debt that is not by its terms expressly made *pari passu* with or junior to the Notes, as described under "Description of the Junior Subordinated Notes — Subordination" on page S-67. As mentioned above, your

right to receive accrued and unpaid Contract Payments automatically will terminate upon the occurrence of particular events of GS Group's bankruptcy, insolvency or reorganization.

In connection with an Early Remarketing, other than the first attempt at Remarketing, we may elect that our obligations under the Notes shall be senior obligations instead of subordinated obligations, effective on or after the Remarketing Settlement Date.

Are there limitations on our or the Trust's right to redeem or repurchase the APEX?

At or prior to the initial issuance of the Normal APEX, we will enter into a Replacement Capital Covenant, or "*Replacement Capital Covenant*," relating to the APEX, the Notes and the shares of the Preferred that the Trust will purchase under the Contracts. The Replacement Capital Covenant only benefits holders of Covered Debt, as defined in "Replacement Capital Covenant" on page S-99 and is not enforceable by holders of the APEX or the Preferred. However, the Replacement Capital Covenant could preclude us from repurchasing the APEX or redeeming or repurchasing Notes or shares of the Preferred at a time we might otherwise wish to repurchase the APEX or redeem or repurchase Notes or shares of the Preferred. If notice of redemption of any Preferred has been given and if the funds necessary for the redemption have been set aside by us for the benefit of the holders of any shares of the Preferred so called for redemption, then, from and after the redemption date, those shares shall no longer be deemed outstanding and all rights of the holders of those shares (including the right to receive any dividends) will terminate, except the right to receive the redemption price.

In the Replacement Capital Covenant, we covenant not to redeem or purchase (x) Notes or Normal APEX prior to the Stock Purchase Date or (y) Normal APEX or shares of the Preferred prior to the date that is ten years after the Stock Purchase Date, except in either case to the extent that the applicable redemption or purchase price does not exceed: (i) 133.33% of the aggregate amount of (A) net cash proceeds we or our subsidiaries have received from the issuance and sale of common stock of GS Group and rights to acquire common stock of GS Group and (B) the market value of common stock of GS Group that we or our subsidiaries have delivered or issued as consideration for property or assets in an arm's-length transaction or in connection with the conversion of any convertible or exchangeable securities, other than securities for which we have received equity credit from a nationally recognized rating agency, *plus* (ii) 100% of the aggregate net cash proceeds we or our subsidiaries have received from the issuance of certain other specified securities that have equity-like characteristics that satisfy the requirements of the Replacement Capital Covenant and are the same as, or more equity-like than, the applicable characteristics of the APEX at that time, in each case, during the 180 days prior to such redemption or repurchase date. Additionally, any redemption of the Notes prior to the Stock Purchase Date and any redemption or repurchase of the APEX is subject to prior approval of the SEC. See "What are the Basic Terms of the Series E Preferred Stock? — Redemption" on page S-6 concerning limitations on our right to redeem or repurchase shares of the Preferred.

Although not a formal limitation and not a part of the Replacement Capital Covenant, following the expiration of the Replacement Capital Covenant we intend that, to the extent that the Preferred provides us with equity credit from a nationally recognized rating agency at the time of redemption, we will redeem shares of the Preferred only out of net proceeds received by us from the sale or issuance, during the 180-day period prior to the notice date for such redemption by us or subsidiaries of ours to third-party purchasers, other than a subsidiary of ours, of securities for which we will receive equity credit, at the time of sale or issuance, that is, in the aggregate, equal to or greater than the equity credit attributed to the securities we are redeeming at the time of such redemption. The determination of the equity credit of the securities that we redeem may result in the issuance of an amount of new securities that may be less than the principal or liquidation amount of the securities redeemed, depending upon, among other things, the nature of the new securities issued and the equity credit attributed by a nationally recognized rating agency to the securities redeemed and the new securities.

The Trust will redeem the Capital APEX in exchange for Notes promptly after the Remarketing Settlement Date. After the Stock Purchase Date, if the Notes have not been successfully remarketed,

or on the earlier termination of the Contracts, the Trust may redeem the Capital APEX, in whole but not in part, in exchange for Notes having a principal amount equal to the liquidation amount of the Capital APEX so redeemed, *provided* that, there are no additional notes outstanding that were issued in respect of deferred interest on the Notes. The Trust is also required to redeem the Normal APEX upon redemption of the Preferred and to redeem any outstanding Capital APEX upon the maturity or earlier redemption of the Notes, in each case out of the proceeds of the corresponding security. The Replacement Capital Covenant does not restrict the redemption or repurchase of the Capital APEX on or after the Stock Purchase Date.

When can the Trust be dissolved?

The Trust may only be dissolved upon a bankruptcy, dissolution or liquidation of GS Group, the redemption of all the APEX in accordance with the provisions of the Trust Agreement or the entry of an order for the dissolution of the Trust by a court of competent jurisdiction. The dissolution of the Trust pursuant to the entry of an order for dissolution will constitute an Early Settlement Event if it occurs prior to the Stock Purchase Date and the Contracts have not otherwise been terminated.

Upon the dissolution, after satisfaction of liabilities of creditors of the Trust, holders of each series of APEX will generally receive corresponding assets of the Trust in respect of their APEX, which may in the case of Normal APEX consist of depositary receipts in respect of their beneficial interests therein, and the APEX will no longer be deemed to be outstanding.

What is the extent of our Guarantee?

Pursuant to a guarantee, or "*Guarantee*," that we will execute and deliver for the benefit of holders of APEX, we will irrevocably guarantee, on a junior subordinated basis, the payment in full of the following:

- any accumulated and unpaid distributions required to be paid on the APEX, to the extent the Trust has funds available to make the payment;
- the redemption price for any APEX called for redemption, to the extent the Trust has funds available to make the payment; and
- upon a voluntary or involuntary dissolution, winding up or liquidation of the Trust, other than in connection with a distribution of corresponding assets to the holders of the APEX, the lesser of:
    - the aggregate of the liquidation amount and all accumulated and unpaid distributions on the APEX to the date of payment, to the extent the Trust has funds available to make the payment; and
    - the amount of assets of the Trust remaining available for distribution to holders of the APEX upon liquidation of the Trust.

Our obligations under the Guarantee are unsecured, are subordinated to and junior in right of payment to all of our secured and senior and subordinated debt and will rank on a parity with any other similar guarantees we may issue in the future.

The APEX, the Guarantee, the Notes and the Additional Notes, if any, do not limit our ability or the ability of our subsidiaries to incur additional indebtedness, including indebtedness that ranks senior to or equally with the Notes and the Guarantee.

The Guarantee, when taken together with our obligations under the Notes, the Additional Notes, if any, and the Indenture, the Contracts and the Trust Agreement, including the obligations to pay costs, expenses, debts and liabilities of the Trust, other than liabilities with respect to the Trust securities, has the effect of providing a full and unconditional guarantee by The Goldman Sachs Group, Inc. to pay amounts due on the APEX.

What are the U.S. federal income tax consequences related to the APEX?

If you purchase Normal APEX in the offering, we will treat you for U.S. federal income tax purposes as having acquired an interest in the Notes and Contracts held by the Trust. You must

allocate the purchase price of the Normal APEX between those Notes and Contracts in proportion to their respective fair market values, which will establish your initial tax basis in the Notes and the Contracts. We will treat the fair market value of each interest in the Notes as $1,000 and the fair market value of each Contract as $0. This position generally will be binding on the beneficial owner of each Normal APEX but not on the Internal Revenue Service.

Assuming full compliance with the terms of the Trust Agreement, the Trust will not be classified as an association or publicly traded partnership taxable as a corporation for U.S. federal income tax purposes, and the Trust intends to treat itself as one or more grantor trusts or agency arrangements for U.S. federal income tax purposes. Accordingly, for U.S. federal income tax purposes, we will treat each U.S. holder (as defined under "Supplemental U.S. Federal Income Tax Considerations" on page S-103) of Normal APEX as purchasing and owning a beneficial interest in the Notes and as required to take into account its *pro rata* share of all items of income, gain, loss or deduction of the Trust.

The Notes will be treated as our indebtedness for U.S. federal income tax purposes. We intend to treat stated interest on the Notes as ordinary interest income that is includible in your gross income at the time the interest is paid or accrued, in accordance with your regular method of tax accounting, and by purchasing a Normal APEX you agree to report income on this basis. However, because there are no regulations, rulings or other authorities that address the U.S. federal income tax treatment of debt instruments that are substantially similar to the Notes, other treatments of the Notes are possible. See "Supplemental U.S. Federal Income Tax Considerations" on page S-103.

If we exercise our right to defer payments of stated interest on the Notes, we intend to treat the Notes as reissued, solely for U.S. federal income tax purposes, with original issue discount, and you would generally be required to accrue such original issue discount as ordinary income using a constant yield method prescribed by Treasury regulations. As a result, the income that you would be required to accrue would exceed the interest payments that you would actually receive. See "Supplemental U.S. Federal Income Tax Considerations" on page S-103. We intend to report Contract Payments on the Contracts as income to you, but you may want to consult your tax advisor concerning the U.S. federal income tax treatment of the Contract Payments. See "Supplemental U.S. Federal Income Tax Considerations" on page S-103.

What are the U.S. federal income tax consequences related to the Series E Preferred Stock?

Any distribution with respect to the Preferred that we pay out of our current or accumulated earnings and profits (as determined for U.S. federal income tax purposes) will constitute a dividend and will be includible in income by you when received by the Trust and distributed to you as holder of a Normal APEX after the Stock Purchase Date. Any such dividend will be eligible for the dividends received deduction if you are an otherwise qualifying corporate U.S. holder that meets the holding period and other requirements for the dividends received deduction. Dividends paid to non-corporate U.S. holders in taxable years beginning before January 1, 2011 are generally subject to a maximum federal income tax rate of 15% if the holder holds its interest in the Preferred for more than 60 days during the 121-day period beginning 60 days before the ex-dividend date and meets certain other requirements.

What are our expected uses of proceeds from the offering of the APEX?

We intend to use the net proceeds to provide additional funds for our operations and for other general corporate purposes.

The Trust will invest all of the proceeds from the sale of the Normal APEX and the Trust Common Securities in the Notes.

Are there limits on the amount of automatic preferred enhanced capital securities we may issue?

We may from to time issue, through trusts we have created, additional series of automatic preferred enhanced capital securities, without limit.

RISK FACTORS SPECIFIC TO YOUR APEX

An investment in the APEX is subject to the risks described below. You should carefully review the following risk factors and other information contained in this prospectus supplement and the accompanying prospectus before deciding whether this investment is suited to your particular circumstances. In addition, because each APEX sold in this offering will represent a beneficial interest in the Trust, which will own our Notes and enter into Contracts with us to acquire our Preferred, you are also making an investment decision with regard to the Notes and the Preferred, as well as our Guarantee of the Trust's obligations. You should carefully review all the information in this prospectus supplement and the accompanying prospectus about all of these securities.

We May Defer Contract Payments and Interest Payments on the Junior Subordinated Notes and this May Have an Adverse Effect on the Value of the APEX

We may at our option, and will if so directed by the SEC, defer the payment of all or part of the Contract Payments on the Contracts through the Stock Purchase Date, in which case the Trust would defer distributions of corresponding amounts on the Normal APEX and the Stripped APEX. We also may at our option, and will if so directed by the SEC, defer interest payments on the Notes and Additional Notes, if any, in which case the Trust would defer distributions on the Normal APEX, if the deferral occurs prior to the Stock Purchase Date, and on the Capital APEX.

If the Notes are successfully remarketed, the proceeds will reflect the value of accrued and unpaid interest and, to the extent not applied to purchase U.S. treasury securities to fund the purchase of the Preferred and the final payment under the Normal APEX, will be paid to the holders of the Normal APEX and Trust Common Securities and holders of Capital APEX who elected to dispose of their Capital APEX in connection with the Remarketing. If the Notes are not successfully remarketed, on the Stock Purchase Date, the Trust will receive Additional Notes in respect of any deferred amounts, which it will hold as additional assets corresponding to the Normal APEX and Capital APEX. If we defer any Contract Payments until the Stock Purchase Date, the Trust will receive Additional Notes, in lieu of a cash payment, which it will hold as additional assets corresponding to the Normal APEX, the Stripped APEX and Trust Common Securities.

The Additional Notes that we issue to the Trust in satisfaction of deferred interest or Contract Payments will be deeply subordinated and bear interest at a rate equal to 5.593% *per annum*, which could be less than our then current market rate of interest. In addition, if we exercise our option to defer interest on the Notes, we intend to treat the Notes as reissued, solely for U.S. federal income tax purposes, with an original issue discount. As a result, you will be required to continue to accrue income for U.S. federal income tax purposes even though you would not receive current cash payments in respect of the Notes. See "Supplemental U.S. Federal Income Tax Considerations" below. Furthermore, if the Contracts are terminated due to our bankruptcy, insolvency or reorganization, the right to receive Contract Payments and deferred Contract Payments, if any, will also terminate.

The terms of our outstanding junior subordinated debentures prohibit us from making any payment of principal of or interest on the Notes or the Guarantee relating to the APEX and from repaying, redeeming or repurchasing any Notes if an event of default under any indenture governing those debentures has occurred and is continuing or at any time when we have given notice of our election to defer interest thereunder or any amount of deferred interest thereunder that has not been cancelled remains unpaid.

Our Subordinated Debt Indenture Does Not Limit the Amount of Additional Senior and Subordinated Indebtedness We May Incur

The Notes will be subordinate and junior in right of payment and upon liquidation to all our senior and subordinated indebtedness for money borrowed that by its terms is not superior in right of payment to the Notes upon our liquidation. As of February 23, 2007, we had outstanding, including

accrued interest, approximately $215 billion of senior and subordinated indebtedness, including indebtedness of our subsidiaries, that ranks senior to the Notes.

We may issue *Pari Passu* Securities as to which we are required to make payments of interest during a deferral period on the Notes that, if not made, would cause us to breach the terms of the instrument governing such *Pari Passu* Securities. The terms of the Notes permit us to make any payment of principal or deferred interest on *Pari Passu* Securities that, if not made, would cause us to breach the terms of the instrument governing such *Pari Passu* Securities. They also permit us to make any payment of current or deferred interest on *Pari Passu* Securities and on the Notes during a deferral period that is made *pro rata* to the amounts due on such *Pari Passu* Securities and the Notes.

If the Trust Must Settle the Stock Purchase Contracts Early, You May Earn a Smaller Return on Your Investment

The Remarketing process may begin before May 2012 if certain adverse events described under "Description of the Junior Subordinated Notes — Early Settlement Events" occur. Although dividends will accrue on the Preferred at the same rate as the combined rate at which Contract Payments and interest on the Notes would have accrued through June 1, 2012, Preferred dividends are non-cumulative and thus the distributions on the Normal APEX would become non-cumulative at an earlier date than expected. The Preferred acquired by the Trust will also rank lower on liquidation of GS Group than the Notes. Accordingly, if an Early Settlement Event occurs, the Trust may skip distributions that otherwise would have been cumulative and if GS Group becomes insolvent prior to the date on which the Stock Purchase Date would otherwise have occurred, the Trust's claim against GS Group in the insolvency will rank lower than it would have ranked if GS Group had not become insolvent.

The Series E Preferred Stock That the Trust Purchases on the Stock Purchase Date May Be Worth Less than the Amount It Pays For It

The Trust must buy the Preferred pursuant to the Contracts on the Stock Purchase Date at a fixed price of $100,000 per share, or $1,000 for each 1/100th interest in a Contract corresponding to Normal APEX or Stripped APEX. Although dividends declared by GS Group's board of directors (or any duly authorized committee), if applicable, will accrue on the Preferred at a floating rate commencing on the later of (i) the Dividend Payment Date in June 2012 and (ii) the Stock Purchase Date, the spread from LIBOR was established at the time of this offering. Accordingly, adverse changes in our credit quality may cause the market value of the Preferred that the Trust will purchase on the Stock Purchase Date to be lower than the price per share that the Contracts require it to pay. Holders of Normal APEX and Stripped APEX are assuming the entire risk that the market value of the Preferred purchased by the Trust will be lower than the purchase price of the Preferred and that the market value of 1/100th of a share of Preferred corresponding to a Normal APEX may be less than the price they paid for it, and that difference could be substantial.

We are regulated by the SEC as a CSE. As a CSE, we are subject to group-wide supervision and examination by the SEC and, accordingly, are subject to minimum capital requirements on a consolidated basis. If the CSE regulatory capital requirements that apply to us change in the future or if we become subject to different regulatory capital requirements, the Preferred may be converted, at our option and without your consent, into a new series of preferred stock having terms and provisions that are substantially identical to those of the Preferred, except that the new series may have such additional or modified rights, preferences, privileges and voting powers, and such restrictions and limitations thereof, as are necessary in our judgment (after consultation with counsel of recognized standing) to comply with the then-applicable regulatory capital requirements. However, we will not cause any such conversion unless we have determined that the rights, preferences, privileges and voting powers of such new series of preferred stock, taken as a whole, are not materially less favorable to the holders thereof than the rights, preferences, privileges and voting powers of the

Preferred, taken as a whole. For example, we could agree to restrict our ability to pay dividends on or redeem the new series of preferred stock for a specified period or indefinitely, to the extent permitted by the terms and provisions of the new series of preferred stock, since such a restriction would be permitted in our discretion under the terms and provisions of the Preferred. We describe our conversion right under "Description of the Series E Preferred Stock — Regulatory Changes Relating to Capital Adequacy" below.

The Return of Pledged Securities on Termination of the Stock Purchase Contracts Could Be Delayed If We Become Subject to a Bankruptcy Proceeding

Notwithstanding the automatic termination of the Contracts, if we become the subject of a case under the U.S. Bankruptcy Code, imposition of an automatic stay under Section 362 of the Bankruptcy Code, if applicable, or any court-ordered stay may delay the return to the Trust of the securities being held as collateral for the Contracts, and the delay may continue until the stay has been lifted. The stay will not be lifted until the bankruptcy judge agrees to lift it and return the collateral to the Trust, and the Trust will not be able to distribute the Notes or the proceeds from the U.S. treasury securities purchased with the Remarketing proceeds held as collateral to the holders of the Normal APEX or to distribute the Qualifying Treasury Securities held as collateral to the holders of the Stripped APEX until they are returned to it.

The Contract Payments and Interest on the Junior Subordinated Notes Beneficially Owned by the Trust Will Be Contractually Subordinated and Will Be Effectively Subordinated to the Obligations of Our Subsidiaries

Our obligations with respect to Contract Payments and interest on the Notes will be subordinate and junior in right of payment and upon liquidation to our obligations under all of our indebtedness for money borrowed, including the junior subordinated debt securities underlying traditional trust preferred securities of GS Group currently outstanding and other debt that by its terms is not superior in right of payment to the Notes, but not our trade creditors. As of February 23, 2007, we had outstanding, including accrued interest, approximately $215 billion of senior and subordinated indebtedness, including indebtedness of our subsidiaries, that ranks senior to the Notes.

Because our assets consist principally of interests in the subsidiaries through which we conduct our businesses, our right to participate as an equity holder in any distribution of assets of any of our subsidiaries upon the subsidiary's liquidation or otherwise, and thus the ability of our security holders to benefit from the distribution, is junior to creditors of the subsidiary, except to the extent that any claims we may have as a creditor of the subsidiary are recognized. In addition, dividends, loans and advances to us from some of our subsidiaries, including Goldman, Sachs & Co., are restricted by net capital requirements under the Securities Exchange Act of 1934 and under rules of securities exchanges and other regulatory bodies. Furthermore, because some of our subsidiaries, including Goldman, Sachs & Co., are partnerships in which we are a general partner, we may be liable for their obligations. We also guarantee many of the obligations of our subsidiaries. Any liability we may have for our subsidiaries' obligations could reduce our assets that are available to satisfy our direct creditors, including investors in our securities. Accordingly, the Contract Payments and payments on our Notes, and therefore the APEX, effectively will be subordinated to all existing and future liabilities of our subsidiaries.

We Guarantee Distributions on the APEX Only If the Trust Has Cash Available

If you hold any of the APEX, we will guarantee you, on an unsecured and junior subordinated basis, the payment of the following:

- any accumulated and unpaid distributions required to be paid on the APEX, to the extent the Trust has funds available to make the payment;

- the redemption price for any APEX called for redemption, to the extent the Trust has funds available to make the payment; and
- upon a voluntary or involuntary dissolution, winding up or liquidation of the Trust, other than in connection with a distribution of corresponding assets to holders of APEX, the lesser of:
  - the aggregate of the stated liquidation amount and all accumulated and unpaid distributions on the APEX to the date of payment, to the extent the Trust has funds available to make the payment; and
  - the amount of assets of the Trust remaining available for distribution to holders of the APEX upon liquidation of the Trust.

If we do not make a required Contract Payment on the Contracts or interest payment on the Notes, the Trust will not have sufficient funds to make the related payment on the APEX. The Guarantee does not cover payments on the APEX when the Trust does not have sufficient funds to make them. If we do not pay any amounts on the Contracts or the Notes when due, holders of the APEX will have to rely on the enforcement by the Property Trustee of the trustee's rights as owner of the Contracts or the Notes, or, to the extent permitted, proceed directly against us for payment of any amounts due on the Contracts or the Notes.

Our obligations under the Guarantee are unsecured and are subordinated to and junior in right of payment to all of our secured and senior indebtedness, and will rank on a parity with any similar guarantees issued by us in the future.

Holders of the APEX Have Limited Rights under the Junior Subordinated Notes and Stock Purchase Contracts

Except as described below, you, as a holder of the APEX, will not be able to exercise directly any other rights with respect to the Notes or Contracts.

If an event of default under the Trust Agreement were to occur and be continuing, holders of the APEX would rely on the enforcement by the Property Trustee of its rights as the registered holder of the Notes and the Contracts against us. In addition, the holders of a majority in liquidation amount of the relevant series of APEX would have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Property Trustee or to direct the exercise of any trust or power conferred upon the Property Trustee under the Trust Agreement, including the right to direct the Property Trustee to exercise the remedies available to it as the holder of the Notes and Contracts.

The Indenture for the Notes provides that the Indenture Trustee must give holders notice of all defaults or events of default within 30 days after it becomes known to the Indenture Trustee. However, except in the cases of a default or an event of default in payment on the Notes, the Indenture Trustee will be protected in withholding the notice if its responsible officers determine that withholding of the notice is in the interest of such holders.

If the Property Trustee were to fail to enforce its rights under the Notes in respect of an Indenture event of default after a record holder of the Normal APEX (if prior to the Stock Purchase Date or if earlier, the Remarketing Settlement Date) or the Capital APEX had made a written request, that record holder of the Normal APEX or the Capital APEX may, to the extent permitted by applicable law, institute a legal proceeding against us to enforce the Property Trustee's rights under the Notes. In addition, if we were to fail to pay interest or principal on the Notes on the date that interest or principal is otherwise payable, except for deferrals permitted by the Trust Agreement and the Indenture, and this failure to pay were continuing, holders of the Normal APEX, if such failure occurs prior to the Stock Purchase Date or if earlier, the Remarketing Settlement Date, and holders of the Capital APEX may directly institute a proceeding for enforcement of payment of the principal of or interest on the Notes having a principal amount equal to the aggregate liquidation amount of their Normal APEX or Capital APEX (a "*direct action*") after the respective due dates specified in the Notes. In connection with a direct action, we would have the right under the Indenture and the Trust Agreement to set off

any payment made to that holder by us. The Stock Purchase Contract Agreement contains similar provisions with respect to a direct action by holders of Normal APEX or Stripped APEX in the event of our default under the Contracts.

The Property Trustee, as Holder of the Junior Subordinated Notes on Behalf of the Trust, Has Only Limited Rights of Acceleration

The Property Trustee, as holder of the Notes on behalf of the Trust, may accelerate payment of the principal and accrued and unpaid interest on the Notes only upon the occurrence and continuation of an Indenture event of default. An Indenture event of default is generally limited to payment defaults after giving effect to our deferral rights, and specific events of bankruptcy, insolvency and reorganization relating to us.

There is no right to acceleration upon breaches by us of other covenants under the Indenture or default on our payment obligations under the Guarantee.

The Secondary Market for the APEX May Be Illiquid

We are unable to predict how the APEX will trade in the secondary market or whether that market will be liquid or illiquid. There is currently no secondary market for the APEX. Although we will apply to list the Normal APEX on the New York Stock Exchange under the symbol "GS/PE," we can give you no assurance as to the liquidity of any market that may develop for the Normal APEX. In addition, in the event that sufficient numbers of Normal APEX are exchanged for Stripped APEX and Capital APEX, the liquidity of Normal APEX could decrease. If Stripped APEX or Capital APEX are separately traded to a sufficient extent that applicable exchange listing requirements are met, we may list the Stripped APEX or Capital APEX on the same exchange as the Normal APEX are then listed, including, if applicable, the New York Stock Exchange, though we are under no obligation to do so. Accordingly, if you exchange Normal APEX for Stripped APEX and Capital APEX, your ability to sell them may be limited and we can give you no assurance whether a trading market, if it develops, will continue. As Normal APEX may only be held or transferred in amounts having an aggregate liquidation amount of at least $1,000, the trading market for Normal APEX may be less active than markets for securities that may be held or transferred in smaller denominations and may be less liquid.

We May Redeem the Junior Subordinated Notes and the APEX Prior to June 1, 2016 upon the Occurrence of Certain Special Events

We may redeem all, but not less than all, of the Notes prior to June 1, 2016 upon the occurrence of certain special events. The redemption price of the Notes in the case of a redemption in connection with a rating agency event or tax event will be equal to the greater of 100% of their principal amount and a make-whole redemption price, *plus* accrued and unpaid interest through the date of redemption. The redemption price of the Notes in the case of a redemption in connection with a capital treatment or investment company event will be equal to 100% of their principal amount *plus* accrued and unpaid interest through the date of redemption. If we redeem the Notes prior to the Stock Purchase Date, the Contracts will terminate automatically and the Trust will redeem the APEX. Holders of Normal APEX and Capital APEX will receive an amount in cash equal to the redemption price of the Notes that are corresponding assets of their APEX and holders of Stripped APEX will receive the Qualifying Treasury Securities that are corresponding assets of their Stripped APEX. Holders of Normal APEX and Stripped APEX will also receive accrued and unpaid Contract Payments through the date of redemption with respect to their beneficial interests in Contracts that are corresponding assets of their relevant series of APEX.

Certain Aspects of the Tax Accounting for the Junior Subordinated Notes Are Unclear

The Notes will be treated as our indebtedness for U.S. federal income tax purposes. We intend to treat stated interest on the Notes as ordinary interest income that is includible in your gross income at

the time the interest is paid or accrued, in accordance with your regular method of tax accounting, and by purchasing a Normal APEX you agree to report income on this basis. However, because no regulations, rulings or other authorities address the U.S. federal income tax treatment of debt instruments that are substantially similar to the Notes, other treatments of the Notes are possible. See "Supplemental U.S. Federal Income Tax Considerations — Taxation of the Junior Subordinated Notes — Possible Alternative Characterizations and Treatments" below.

Additional Risks Related to the Normal APEX after the Stock Purchase Date

In Purchasing the APEX in the Offering, You Are Making an Investment Decision with Regard to the Series E Preferred Stock

As described in this prospectus supplement, on the Stock Purchase Date we will issue the Preferred to the Trust. If you hold Normal APEX or Stripped APEX on the Stock Purchase Date, your securities will thereafter represent beneficial interests in the Trust corresponding to 1/100th of a share of the Preferred for each $1,000 liquidation amount of APEX. After the Stock Purchase Date, the Trust will rely solely on the payments it receives on the Preferred to fund all payments on the Normal APEX and the Stripped APEX (if any are outstanding), other than payments corresponding to payments on Additional Notes that we may issue in respect of any deferred interest on the Notes after a Failed Remarketing or in respect of deferred Contract Payments. Accordingly, you should carefully review the information in this prospectus supplement and the accompanying prospectus regarding the Preferred.

The Series E Preferred Stock is Equity and is Subordinate to Our Existing and Future Indebtedness

Shares of the Preferred are equity interests in GS Group and do not constitute indebtedness. As such, shares of the Preferred will rank junior to all indebtedness and other non-equity claims on GS Group with respect to assets available to satisfy claims on GS Group, including in a liquidation of GS Group. Additionally, unlike indebtedness, where principal and interest would customarily be payable on specified due dates, in the case of preferred stock like the Preferred, (1) dividends are payable only if declared by our board of directors (or a duly authorized committee of the board) and (2) as a corporation, we are subject to restrictions on payments of dividends and redemption price out of lawfully available funds. GS Group has issued and outstanding debt securities under which we may defer interest payments from time to time, but in that case we would not be permitted to pay dividends on any of our capital stock, including the Preferred, during the deferral period.

Holders Should Not Expect GS Group to Redeem the Series E Preferred Stock on the Date it First Becomes Redeemable or on Any Particular Date After it Becomes Redeemable

The Preferred is a perpetual equity security. The Preferred has no maturity or mandatory redemption date and is not redeemable at the option of investors. By its terms, the Preferred may be redeemed by us at our option, either in whole or in part, on any Dividend Payment Date occurring on or after the later of June 1, 2012 and the Stock Purchase Date. Any decision we may make at any time to propose a redemption of the Preferred will depend, among other things, upon our evaluation of the overall level and quality of our capital components, considered in light of our risk exposures, earnings and growth strategy, as well as general market conditions at such time. Our right to redeem the Preferred once issued is subject to two important limitations as described below. Accordingly, investors should not expect us to redeem the Preferred on the date it first becomes redeemable or on any particular date thereafter.

First, any redemption of the Preferred is subject to prior approval of the SEC. Moreover, unless the SEC authorizes us to do otherwise in writing, we will redeem the Preferred only if it is replaced with other Allowable Capital in accordance with the SEC's CSE Rules — for example, common stock or another series of perpetual non-cumulative preferred stock.

There can be no assurance that the SEC will approve any redemption of the Preferred that we may propose. There also can be no assurance that, if we propose to redeem the Preferred without replacing the Preferred with common stock or another series of perpetual non-cumulative preferred stock, the SEC will authorize such redemption. We understand that the factors that the SEC will consider in evaluating a proposed redemption, or a request that we be permitted to redeem the Preferred without replacing it with common stock or another series of perpetual non-cumulative preferred stock, include its evaluation of the overall level and quality of our capital components, considered in light of our risk exposures, earnings and growth strategy, and other supervisory considerations.

Second, at or prior to initial issuance of the APEX, we are entering into the Replacement Capital Covenant, which will limit our right to repurchase the APEX and to redeem or repurchase the Preferred. In the Replacement Capital Covenant, we covenant to redeem or repurchase the APEX prior to the date that is ten years after the Stock Purchase Date only if and to the extent that the total repurchase price is equal to or less than designated percentages of the net cash proceeds that we or our subsidiaries have received during the 180 days prior to such redemption or repurchase date from the issuance of our common stock, certain qualifying perpetual non-cumulative preferred stock satisfying the requirements of the Replacement Capital Covenant or certain other securities that qualify as Allowable Capital of GS Group in accordance with the SEC's CSE Rules and we have obtained prior approval of the SEC, if such approval is then required by the SEC for repurchases of the APEX.

Our ability to raise proceeds from qualifying securities during the 180 days prior to a proposed redemption or repurchase will depend on, among other things, market conditions at such time as well as the acceptability to prospective investors of the terms of such qualifying securities. Accordingly, there could be circumstances where we would wish to redeem or repurchase some or all of the Preferred and sufficient cash is available for that purpose, but we are restricted from doing so because we have not been able to obtain proceeds from qualifying securities sufficient for that purpose.

Dividends on the Series E Preferred Stock will be Non-Cumulative

Dividends on the Preferred will be non-cumulative. Consequently, if our board of directors (or a duly authorized committee of the board) does not authorize and declare a dividend on the Preferred for any relevant Dividend Period, holders of Normal APEX would not be entitled to receive a distribution in respect of any such dividend, and any such unpaid dividend will cease to accrue and be payable. We will have no obligation to pay dividends accrued for a Dividend Period after the Dividend Payment Date for that period if our board of directors (or a duly authorized committee of the board) has not declared such dividend before the related Dividend Payment Date, whether or not dividends are declared for any subsequent Dividend Period with respect to the Preferred or any other preferred stock we may issue.

Holders of the Series E Preferred Stock Will Have Limited Voting Rights

Holders of the Preferred have no voting rights with respect to matters that generally require the approval of voting shareholders, except that holders of the Preferred will have the right to vote as a class on certain fundamental matters that may affect the preference or special rights of the Preferred, as described under "Description of the Series E Preferred Stock — Voting Rights" below. In addition, if dividends on the Preferred have not been declared or paid for the equivalent of six or more Dividend Periods, whether or not for consecutive Dividend Periods, holders of the outstanding shares of the Preferred, together with holders of any other series of our preferred stock ranking equal with the Preferred with similar voting rights, will be entitled to vote for the election of two additional directors, subject to the terms and to the limited extent described under "Description of the Series E Preferred Stock — Voting Rights" below. The Preferred places no restrictions on our business or operations or on our ability to incur indebtedness or engage in any transaction, subject only to the limited voting rights referred to above.

REGULATORY CAPITAL

GS Group is regulated by the SEC as a consolidated supervised entity ("*CSE*") pursuant to the SEC's rules relating to CSEs (referred to as the "*CSE Rules*"). The CSE Rules require CSEs to calculate and report to the SEC on a monthly basis, among other things, statements of Allowable Capital and allowances for market, credit and operational risk computed in accordance with the rules. "*Allowable Capital*" is defined in the CSE Rules in a manner that is consistent with the standards published by the Basel Committee on Banking Supervision and has similarities to Tier 1 and Tier 2 capital as defined in the risk-based capital guidelines and regulations of the U.S. bank regulatory agencies. GS Group expects the SEC will treat:

- prior to the Stock Purchase Date, Normal APEX and Stripped APEX as Allowable Capital for GS Group, subject to the limitation under the CSE Rules that this type of Allowable Capital, together with perpetual cumulative preferred stock, trust preferred capital securities, and any other hybrid instruments in accordance with CSE Rules, may not exceed 33% of common stockholders' equity, subject to certain adjustments; and
- from and after the Stock Purchase Date (and the issuance by GS Group of the Preferred to the Trust on that date), Normal APEX as Allowable Capital not subject to a limitation as a percentage of total Allowable Capital or its components.

Although GS Group has no outstanding cumulative preferred stock, a trust it has created has issued $2.75 billion guaranteed preferred capital securities. Application of the 33% limitation described above will not cause the Normal APEX or Stripped APEX to be disallowed as Allowable Capital for GS Group.

THE TRUST

The following is a summary of some of the terms of the Trust and supplements and to the extent inconsistent with, supersedes and replaces the discussion under "The Issuer Trusts" in the accompanying prospectus. This summary, together with the summary of some of the provisions of the related documents described below, contains a description of the material terms of the Trust but is not necessarily complete. We refer you to the documents referred to in the following description, copies of which are available upon request from us as described under "Available Information" in the accompanying prospectus.

Goldman Sachs Capital II, or the "*Trust*," is a statutory trust organized under Delaware law pursuant to a Trust Agreement, signed by us, as sponsor of the Trust, the Delaware Trustee, the Property Trustee and the administrative trustees and the filing of a certificate of trust with the Delaware Secretary of State. The Trust Agreement of the Trust will be amended and restated in its entirety by us, the Delaware Trustee, the Property Trustee and the administrative trustees before the issuance of the APEX. We refer to the Trust Agreement, as so amended and restated, as the "*Trust Agreement*." The Trust Agreement will be qualified as an indenture under the Trust Indenture Act of 1939, as amended, or "*Trust Indenture Act*."

The Trust will be used solely for the following purposes:

- issuing the APEX and the Trust Common Securities;
- investing the gross proceeds of the APEX and the Trust Common Securities in the Notes;
- entering into and holding the Contracts for the Trust to purchase shares of the Preferred from us on the Stock Purchase Date;
- holding Notes and certain U.S. treasury securities, and pledging them to secure the Trust's obligations under the Contracts;
- purchasing shares of the Preferred pursuant to the Contracts on the Stock Purchase Date and holding it thereafter;
- selling Notes in a Remarketing or an Early Remarketing; and
- engaging in other activities that are directly related to the activities described above.

We will own all of the Trust Common Securities, either directly or indirectly.

The Trust Common Securities will rank equally with the APEX and the Trust will make payment on its Trust securities *pro rata*, except that upon certain events of default under the Trust Agreement relating to payment defaults on the Notes or non-payment of Contract Payments, the rights of the holders of the Trust Common Securities to payment in respect of distributions and payments upon liquidation, redemption and otherwise will be subordinated to the rights of the holders of the APEX. We will acquire Trust Common Securities in an aggregate liquidation amount equal to $10,000.

The Trust's business and affairs will be conducted by its trustees, each appointed by us as sponsor of the Trust. The trustees will be The Bank of New York, as the property trustee, or "*Property Trustee*," and The Bank of New York (Delaware), as the Delaware trustee, or "*Delaware Trustee*," and two or more individual trustees, or "*administrative trustees*," who are employees or officers of or affiliated with us. The Property Trustee will act as sole trustee under the Trust Agreement for purposes of compliance with the Trust Indenture Act and will also act as trustee under the Guarantee and the Indenture. See "Description of the Guarantee" below.

Unless an event of default under the Indenture has occurred and is continuing at a time that the Trust owns any Notes, the holders of the Trust Common Securities will be entitled to appoint, remove or replace the Property Trustee and/or the Delaware Trustee.

The Property Trustee and/or the Delaware Trustee may be removed or replaced for cause by the holders of a majority in liquidation amount of the APEX. In addition, holders of a majority in liquidation amount of the Capital APEX and, if prior to the Stock Purchase Date or if earlier, the Remarketing Settlement Date, Normal APEX will be entitled to appoint, remove or replace the Property Trustee and/or the Delaware Trustee if an event of default under the Indenture has occurred and is continuing and, at any time after the Stock Purchase Date, the holders of a majority in liquidation amount of the Normal APEX will be entitled to appoint, remove or replace the Property Trustee and/or the Delaware Trustee if we have failed to declare and pay dividends on the Preferred held by the Trust for six or more consecutive quarters.

The right to vote to appoint, remove or replace the administrative trustees is vested exclusively in the holders of the Trust Common Securities, and in no event will the holders of the APEX have such right.

The Trust is a "finance subsidiary" of us within the meaning of Rule 3-10 of Regulation S-X under the Securities Act of 1933, or "*Securities Act*." As a result, no separate financial statements of the Trust are included in this prospectus supplement or the accompanying prospectus, and we do not expect that the Trust will file reports with the SEC under the Securities Exchange Act of 1934, or "*Exchange Act*."

The Trust is perpetual, but may be dissolved earlier as provided in the Trust Agreement.

We will pay all fees and expenses related to the Trust and the offering of the APEX.

DESCRIPTION OF THE APEX

The following is a brief description of the terms of the APEX and of the Trust Agreement under which they are issued and supplements *and to the extent inconsistent with, supersedes and replaces the description of capital securities of the Trust contained in the accompanying prospectus, including under "Description of Capital Securities and Related Instruments." It does not purport to be complete in all respects. This description is subject to and qualified in its entirety by reference to the Trust Agreement, copies of which are available upon request from us as described under "Available Information" in the accompanying prospectus.*

General

The APEX are series of capital securities of the Trust and will be issued pursuant to the trust agreement among The Goldman Sachs Group, Inc., The Bank of New York, the Bank of New York (Delaware), the administrative trustees and the several holders of the Trust securities (the "*Trust Agreement* "). The Property Trustee, The Bank of New York, will act as indenture trustee for the APEX under the Trust Agreement for purposes of compliance with the provisions of the Trust Indenture Act. The APEX, each with a liquidation amount of $1,000, may be either Normal APEX, Stripped APEX or Capital APEX, and unless indicated otherwise, as used in this prospectus supplement, the term "*APEX* " includes all three of these series.

The APEX issued in the offering will consist of Normal APEX, which are exchangeable for the other series of APEX as described herein. The terms of each series of APEX will include those stated in the Trust Agreement, including any amendments thereto and those made part of the Trust Agreement by the Trust Indenture Act and the Delaware Statutory Trust Act.

The Trust will initially own all of our Remarketable Junior Subordinated Notes due 2043, or "*Notes*," and will enter into a stock purchase contract agreement, or "*Stock Purchase Contract Agreement*," with us, pursuant to which it will own 17,500.1 stock purchase contracts, each a Contract, having a stated amount of $100,000.

In addition to the APEX, the Trust Agreement authorizes the administrative trustees of the Trust to issue the Trust Common Securities on behalf of the Trust. We will own, directly or indirectly, all of the Trust Common Securities. The Trust Common Securities rank on a parity, and payments upon redemption, liquidation or otherwise will be made on a proportionate basis, with the APEX except as set forth below under "— Ranking of Trust Common Securities." The Trust Agreement does not permit the Trust to issue any securities other than the Trust Common Securities and the APEX or to incur any indebtedness.

Under the Trust Agreement, the Property Trustee on behalf of the Trust:

- will own the Notes purchased by the Trust for the benefit of the holders of the Normal APEX, Capital APEX and Trust Common Securities;
- will enter into the Contracts and own the Preferred purchased by the Trust pursuant thereto for the benefit of the holders of the Normal APEX, Stripped APEX and Trust Common Securities;
- will own the Qualifying Treasury Securities delivered upon exchange of Normal APEX and Qualifying Treasury Securities for Stripped APEX and Capital APEX or purchased by the Collateral Agent with the proceeds of maturing Qualifying Treasury Securities for the benefit of the holders of Stripped APEX;
- will own U.S. treasury securities purchased from the cash proceeds from the Remarketing of the Notes on the Remarketing Settlement Date for the benefit of the holders of Normal APEX; and

- may own the Additional Notes, if any, we issue to the Trust on the Stock Purchase Date in respect of deferred interest on the Notes and/or deferred Contract Payments on the Contracts, as the case may be.

The payment of distributions out of money held by the Trust, and payments upon redemption of the APEX or liquidation of the Trust, are guaranteed by us to the extent described under "Description of the Guarantee." The Guarantee, when taken together with our obligations under the Contracts, the Notes and the Indenture and our obligations under the Trust Agreement, including our obligations to pay costs, expenses, debts and liabilities of the Trust, other than with respect to the Trust Common Securities and the APEX, has the effect of providing a full and unconditional guarantee of amounts due on the APEX. The Bank of New York, as the Guarantee Trustee, will hold the Guarantee for the benefit of the holders of the APEX. The Guarantee does not cover payment of distributions when the Trust does not have sufficient available funds to pay those distributions. In that case, except in the limited circumstances in which the holder may take direct action, the remedy of a holder of the APEX is to vote to direct the Property Trustee to enforce the Property Trustee's rights under the Notes or the Contracts, as the case may be.

When we use the term "*holder*" in this prospectus supplement with respect to a registered APEX, we mean the person in whose name such APEX is registered in the security register. The APEX will be held in book-entry form only, as described under "Book-Entry System" below except in the circumstances described in that section, and will be held in the name of DTC or its nominee.

We will apply to list the Normal APEX on the New York Stock Exchange under the symbol "GS/PE." Unless and until Normal APEX are exchanged for Stripped APEX and Capital APEX, the Stripped APEX and the Capital APEX will not trade separately. If Stripped APEX or Capital APEX (or after the Remarketing Settlement Date, Notes) are separately traded to a sufficient extent that applicable exchange listing requirements are met, we may list the Stripped APEX or Capital APEX (or after the Remarketing Settlement Date, Notes) on the same exchange as the Normal APEX are then listed, including, if applicable, the New York Stock Exchange, though we are under no obligation to do so.

Normal APEX

The APEX sold in the offering are called the 5.793% Fixed-to-Floating Rate Normal APEX, or "*Normal APEX*," and each represents a beneficial interest in the Trust initially corresponding to the following Trust assets:

- $1,000 principal amount of Notes; and
- a 1/100th interest in a Contract under which:
  - the Trust will agree to purchase from us, and we will agree to sell to the Trust, on the Stock Purchase Date, for $100,000 in cash, a share of our perpetual Non-Cumulative Preferred Stock, Series E, $100,000 liquidation preference per share, or the "*Preferred*"; and
  - we will pay Contract Payments to the Trust at a rate equal to 0.200% *per annum* on the liquidation amount of $100,000, subject to our right to defer these payments.

We describe the Contracts, the Trust's obligation to purchase our Preferred and the Contract Payments in more detail under "Description of the Stock Purchase Contracts" below and we describe the Notes and how and when they will be remarketed in more detail under "Description of the Junior Subordinated Notes" below.

The stock purchase date under the Contracts, or "*Stock Purchase Date*," is expected to be June 1, 2012 (or if such day is not a business day, the next business day), but could (i) occur on an earlier date in the circumstances described below under "Description of the Junior Subordinated Notes —

Early Settlement Events" or (ii) be deferred for quarterly periods until as late as June 1, 2013 (or if such day is not a business day, the previous day) if the first four attempts to remarket the Notes are not successful. Through the later of June 1, 2012 and the Stock Purchase Date or if earlier, the Remarketing Settlement Date, unless we otherwise defer such payments, we will make interest payments on the Notes at a rate of 5.593% *per annum*, semi-annually in arrears on each June 1 and December 1, commencing December 1, 2007, calculated on the basis of a 360-day year consisting of twelve 30-day months, and the Trust will pass through such interest payments when received as distributions on the Normal APEX. We will also make an interim interest payment on the Stock Purchase Date if the Notes have not been successfully remarketed and such date is not otherwise an interest payment date. After the later of June 1, 2012 and the Stock Purchase Date or if earlier, the Remarketing Settlement Date, the Trust will not pass through interest on the Notes to holders of Normal APEX.

The purchase price of each Normal APEX will be allocated between the interests in the corresponding Contract and the corresponding Notes in proportion to their respective fair market values at the time of issuance. We will treat the fair market value of each Note as $1,000 and the fair market value of each Contract as $0. This position generally will be binding on each beneficial owner of each Normal APEX but not on the Internal Revenue Service.

Any Notes beneficially owned by the Trust corresponding to the Normal APEX and their proceeds will be pledged to us under a collateral agreement, or "*Collateral Agreement*," between us and U.S. Bank National Association, acting as collateral agent, or "*Collateral Agent*," to secure the Trust's obligation to purchase the Preferred under the corresponding Contract. U.S. Bank National Association will also act as registrar and transfer agent, or "*Transfer Agent*," for the APEX and as custodial agent, or "*Custodial Agent*," for other property of the Trust. If U.S. Bank National Association should resign or be removed in any of these capacities, we or the Trust will designate a successor and the terms "*Collateral Agent*," "*Transfer Agent*" and "*Custodial Agent*" as used in this prospectus supplement will refer to that successor.

A "*business day*" as used in this section means any day other than a Saturday, Sunday or any other day on which banking institutions and trust companies in New York, New York or Wilmington, Delaware are permitted or required by any applicable law to close.

Exchanging Normal APEX and Qualifying Treasury Securities for Stripped APEX and Capital APEX

You will have the right prior to the Stock Purchase Date or, if earlier, the successful Remarketing of the Notes, to exchange Normal APEX and Qualifying Treasury Securities for Stripped APEX and Capital APEX by depositing with the Collateral Agent $1,000 principal amount of Qualifying Treasury Securities for each $1,000 liquidation amount of Normal APEX to be exchanged, transferring your Normal APEX to the Transfer Agent and delivering the required notice, as described below under "— Exchange Procedures." Upon any such exchange, you will receive $1,000 liquidation amount of Stripped APEX and $1,000 liquidation amount of Capital APEX, and you will be able to trade them separately, although they will not be listed on any stock exchange unless we decide to list them. You will be able to exercise this right on any business day until the Stock Purchase Date, other than on a day in the fifteen-calendar-day period leading up to and including a March 1, June 1, September 1 or December 1 or from 3:00 P.M., New York City time, on the second business day before the beginning of any Remarketing Period and until the business day after the end of that Remarketing Period. You will also not be able to exercise this right at any time after a successful Remarketing. We refer to periods during which exchanges are permitted as "*Exchange Periods*."

Each "*Stripped APEX*" will be a beneficial interest in the Trust corresponding to:

- a 1/100th interest in a Contract; and

- $1,000 principal amount of U.S. treasury securities that were Qualifying Treasury Securities on the date they were acquired by the Trust.

On each Additional Distribution Date (or as promptly thereafter as the Collateral Agent and the paying agent determine to be practicable), each holder of Stripped APEX will also be entitled to receive Excess Proceeds Distributions consisting of the excess of the principal amount at maturity of the Qualifying Treasury Securities over the cost of replacing them with new Qualifying Treasury Securities.

Each "*Capital APEX*" will be a beneficial interest in the Trust corresponding to $1,000 principal amount of Notes held by the Custodial Agent on behalf of the Trust. The Trust will redeem the Capital APEX promptly after the Remarketing Settlement Date in exchange for Notes having an aggregate principal amount equal to the aggregate liquidation amount of Capital APEX so redeemed.

Qualifying Treasury Securities. In order to determine what U.S. treasury security is the Qualifying Treasury Security during any Exchange Period, any administrative trustee shall, for each March 1, June 1, September 1 and December 1, commencing on December 1, 2007 and ending on the Stock Purchase Date or the earlier termination of the Contracts, or if any such day is not a business day, the next business day, or "*Additional Distribution Dates*," identify:

- the 13-week treasury bill that matures at least one but not more than six business days prior to that Additional Distribution Date; or

- if no 13-week treasury bill that matures on at least one but not more than six business days prior to that Additional Distribution Date is or is scheduled to be outstanding on the immediately preceding Additional Distribution Date, the 26-week treasury bill that matures at least one but not more than six business days prior to that Additional Distribution Date; or

- if neither of such treasury bills is or is scheduled to be outstanding on the immediately preceding Additional Distribution Date, any other U.S. treasury security (which may be a zero coupon U.S. treasury security) that is outstanding on the immediately preceding Additional Distribution Date, is highly liquid and matures at least one business day prior to such Additional Distribution Date; *provided* that any U.S. treasury security identified pursuant to this clause shall be selected in a manner intended to minimize the cash value of the security selected.

The administrative trustees shall use commercially reasonable efforts to identify the security meeting the foregoing criteria for each Additional Distribution Date promptly after the Department of the Treasury makes the schedule for upcoming auctions of U.S. treasury securities publicly available and shall, to the extent that a security previously identified with respect to any Additional Distribution Date is no longer expected to be outstanding on the immediately preceding Additional Distribution Date, identify another security meeting the foregoing criteria for such Additional Distribution Date. The security most recently identified by the administrative trustees with respect to any Additional Distribution Date shall be the "*Qualifying Treasury Security*" with respect to the period from and including its date of issuance (or if later, the date of maturity of the Qualifying Treasury Security with respect to the immediately preceding Additional Distribution Date) to but excluding its date of maturity, and the administrative trustees' identification of a security as a Qualifying Treasury Security for such period shall be final and binding for all purposes absent manifest error. You will be able to obtain the issue date, the maturity date and, when available, the CUSIP number of the treasury bills or other U.S. treasury securities that are Qualifying Treasury Securities for the current Exchange Period from the Collateral Agent by calling 1 (800) 934-6802. Since this information is subject to change from time to time, holders should confirm this information prior to purchasing or delivering U.S. treasury securities in connection with any exchange of Normal APEX and Qualifying Treasury Securities for Stripped APEX and Capital APEX.

Each Qualifying Treasury Security delivered to the Collateral Agent in connection with any exchange of Normal APEX and Qualifying Treasury Securities for Stripped APEX and Capital APEX and each Qualifying Treasury Security purchased by the Collateral Agent with the proceeds of any maturing Qualifying Treasury Security will be pledged to us through the Collateral Agent to secure the Trust's obligation to purchase Preferred under the corresponding Contracts. In purchasing Qualifying Treasury Securities, the Collateral Agent will solicit offers from at least three U.S. government securities dealers, one of which may be U.S. Bank National Association or an affiliate of U.S. Bank National Association, and will accept the lowest offer so long as at least two offers are available. The Collateral Agent shall have no liability to the Trust, any trustee or any holder of the APEX in connection with the purchase of Qualifying Treasury Securities in the absence of gross negligence or willful misconduct.

Exchange Procedures. To exchange Normal APEX and Qualifying Treasury Securities for Stripped APEX and Capital APEX, for each Normal APEX you must:

- deposit with the Collateral Agent lien-free U.S. treasury securities that are Qualifying Treasury Securities on the date of deposit, in a principal amount of $1,000, which you must purchase on the open market at your expense unless you already own them;
- transfer the Normal APEX to the Transfer Agent; and
- deliver a notice to the Collateral Agent and the Transfer Agent, in connection with the actions specified above, stating that you are depositing the appropriate Qualifying Treasury Securities with the Collateral Agent, transferring the Normal APEX to the Transfer Agent in connection with the exchange of the Normal APEX and Qualifying Treasury Securities for Stripped APEX and Capital APEX and requesting the delivery to you of Stripped APEX and Capital APEX.

Upon the deposit, transfer and receipt of notice, the Collateral Agent will release the Junior Subordinated Notes corresponding to the exchanged Normal APEX from the pledge under the Collateral Agreement, free and clear of our security interest, and continue to hold them as Custodial Agent for the Trust in connection with the Capital APEX to be delivered to you. The Transfer Agent will cancel the exchanged Normal APEX and then deliver the Stripped APEX and Capital APEX to you.

Exchanging Stripped APEX and Capital APEX for Normal APEX and Qualifying Treasury Securities

If you hold Stripped APEX and Capital APEX you will have the right, at any time during an Exchange Period, to exchange them for Normal APEX and Qualifying Treasury Securities by transferring your Stripped APEX and Capital APEX to the Transfer Agent and delivering the notice specified below. The Collateral Agent will substitute a principal amount of Notes equal to the liquidation amount of the Stripped APEX so exchanged for the same principal amount of Qualifying Treasury Securities pledged to secure the Trust's obligations under the Contracts and deliver these Qualifying Treasury Securities to you, unencumbered by the security interest created under the Collateral Agreement, after which you will own the Qualifying Treasury Securities separately from the Normal APEX.

To exchange Stripped APEX and Capital APEX for Normal APEX and Qualifying Treasury Securities, you must transfer to the Transfer Agent Stripped APEX and Capital APEX having the same liquidation amount, accompanied by a notice to the Transfer Agent, which you must also deliver to the Collateral Agent, stating that you are transferring the Stripped APEX and Capital APEX in connection with the exchange of Stripped APEX and Capital APEX for Normal APEX and Qualifying Treasury Securities, requesting the release to you of pledged Qualifying Treasury Securities having a principal amount equal to the liquidation amount of Stripped APEX and Capital APEX so exchanged and requesting the delivery to you of Normal APEX. You must purchase the Stripped APEX or the Capital APEX at your expense unless you otherwise own them.

Upon the transfer of Stripped APEX and Capital APEX together with the notice and request, the Collateral Agent will release the corresponding Qualifying Treasury Securities from the pledge under the Collateral Agreement, free and clear of our security interest, and deliver them to you. The Transfer Agent will then cancel the exchanged Stripped APEX and Capital APEX and deliver the Normal APEX to you.

The Notes corresponding to the Capital APEX you delivered will be pledged to us through the Collateral Agent to secure the Trust's obligation to purchase Preferred under the Contracts related to the Normal APEX.

If you elect to exchange Normal APEX and Qualifying Treasury Securities for Stripped APEX and Capital APEX or vice versa, you will be responsible for any fees or expenses payable in connection with the exchange.

Current Payments

The Trust must make distributions on each series of APEX on the relevant Distribution Dates to the extent that it has funds available therefor. The Trust's funds available for distribution to you as a holder of any series of APEX will be limited to payments received from us on the assets held by the Trust corresponding to that series. We will guarantee the payment of distributions on the APEX out of moneys held by the Trust to the extent of available Trust funds, as described under "Description of the Guarantee" below. Our obligation to pay Contract Payments will be subordinate and junior in right of payment to all our senior and subordinated indebtedness, to the same extent as our obligations under the Notes, as described under "Description of the Junior Subordinated Notes" below. Our obligations under the Notes are similarly subordinate and junior in right of payment to all our senior and subordinated indebtedness.

The distribution dates for Normal APEX and Stripped APEX, which we call "*Regular Distribution Dates*," are:

- each June 1 and December 1 occurring prior to and including the later of June 1, 2012 and the Stock Purchase Date, commencing December 1, 2007 (or in the case of Stripped APEX, the first such date on which Stripped APEX are outstanding) (or if any such date is not a business day, the next business day);
- after the later of June 1, 2012 and the Stock Purchase Date, each March 1, June 1, September 1 and December 1, or if any such date is not a business day, the next business day; and
- the Stock Purchase Date if not otherwise a Regular Distribution Date;

provided that, the last Regular Distribution Date for the Stripped APEX shall be the Stock Purchase Date.

The distribution dates for Capital APEX, which we call "*Capital APEX Distribution Dates*," are:

- each June 1 and December 1, commencing on the later of the first such date on which Capital APEX are outstanding and December 1, 2007 and continuing through and including the last such date to occur prior to the Remarketing Settlement Date; and
- thereafter for so long as Capital APEX remain outstanding, each day that is an interest payment date for the Notes.

Also, prior to the Stock Purchase Date, the Trust will make additional distributions on the Stripped APEX relating to the Qualifying Treasury Securities quarterly on each March 1, June 1, September 1 and December 1, or if any such date is not a business day, the next business day, which dates we call "*Additional Distribution Dates*," or as promptly thereafter as the Collateral Agent and the paying agent

determine to be practicable, commencing on the later of the first such day after Stripped APEX are outstanding and December 1, 2007.

We use the term "*Distribution Date*" to mean a Regular Distribution Date, a Capital APEX Distribution Date or an Additional Distribution Date. A "*Distribution Period*" is (i) with respect to Normal APEX, Stripped APEX and Trust Common Securities, each period of time beginning on a Regular Distribution Date (or the date of original issuance in the case of the Distribution Period ending in December 2007) and continuing to but not including the next succeeding Regular Distribution Date for such series; and (ii) with respect to Capital APEX, each period of time beginning on a Capital APEX Distribution Date (or the date of original issuance of the APEX in the case of the Distribution Period ending in December 2007) and continuing to but not including the next succeeding Capital APEX Distribution Date. When a Distribution Date is not a business day, the Trust will make the distribution on the next business day without interest. The term "*distribution*" includes any interest payable on unpaid distributions unless otherwise stated.

Distributions made for periods prior to the later of June 1, 2012 and the Stock Purchase Date will be calculated on the basis of a 360-day year consisting of twelve 30-day months, and distributions for periods beginning on or after such date will be calculated on the basis of a 360-day year and the number of days actually elapsed.

Distributions on the APEX will be payable to holders as they appear in the security register of the Trust on the relevant record dates. The record dates will be the fifteenth calendar day immediately preceding the next succeeding Distribution Date. Distributions will be paid through the Property Trustee or paying agent, who will hold amounts received in respect of the Notes, the Contracts and the Preferred for the benefit of the holders of the APEX. Subject to any applicable laws and regulations and the provisions of the Trust Agreement, each distribution will be made as described in the section entitled "Book-Entry System" below.

Normal APEX. Subject to the deferral provisions described below, through the later of June 1, 2012 and the Stock Purchase Date, holders of Normal APEX will be entitled to receive cash distributions semi-annually on each Regular Distribution Date at a rate of 5.793% *per annum* of the liquidation amount, corresponding to (i) interest on the Notes accruing for each Distribution Period ending prior to that date at a rate of 5.593% *per annum* and Contract Payments accruing for each Distribution Period ending prior to that date at a rate of 0.200% *per annum* on the liquidation amount of $1,000 per Normal APEX or (ii) if the Stock Purchase Date occurs prior to June 1, 2012 (or if such date is not a business day, the next business day), dividends on the Preferred accruing for each Distribution Period ending prior to that date, commencing on the Stock Purchase Date.

Subject to the deferral provisions described below, holders of Normal APEX will also receive on the Stock Purchase Date, without duplication of the above payments, an amount equal to accrued and unpaid Contract Payments and interest on the Notes, whether or not the Notes have been successfully remarketed. A portion of the net proceeds of any successful Remarketing will be used to purchase certain U.S. treasury securities maturing on or prior to the Stock Purchase Date in an amount equal to the amount of interest that would have been payable to the Trust on the Notes had they not been sold in the Remarketing and the interest rate not been reset. Holders of Normal APEX making the election described above under " — Remarketing of the Junior Subordinated Notes — Normal APEX" will not be entitled to this additional cash payment due to other holders of Normal APEX if the Remarketing is successful since their Normal APEX will automatically become Stripped APEX and Capital APEX on the Remarketing Settlement Date. In the case of a Failed Remarketing, the Stock Purchase Date will be an interest payment date on the Notes.

After the Stock Purchase Date, holders of Normal APEX will be entitled to receive distributions corresponding to non-cumulative dividends on the Preferred held by the Trust. These cash dividends

will be payable if, as and when declared by our board of directors, on the Dividend Payment Dates, which are:

- if the Preferred is issued prior to June 1, 2012 (or if that day is not a business day, the next business day), semi-annually in arrears on each June 1 and December 1 through June 1, 2013; and
- from and including the later of June 1, 2012 and the date of issuance, quarterly in arrears on each March 1, June 1, September 1 and December 1 (or if such day is not a business day, the next business day).

Dividends on each share of Preferred will be calculated on the liquidation preference of $100,000 per share (i) to but not including the Dividend Payment Date in June, 2012 at a rate *per annum* equal to 5.793%, and (ii) thereafter for each related Dividend Period at a rate *per annum* equal to the greater of (x) three-month LIBOR, *plus* 0.7675% and (y) 4.000%.

For more information about dividends on the Preferred, see "Description of the Series E Preferred Stock — Dividends" below.

Stripped APEX. Subject to the deferral provisions described below, holders of Stripped APEX will be entitled to receive cash distributions on each Regular Distribution Date corresponding to Contract Payments payable by us through the Stock Purchase Date, at a rate of 0.200% *per annum* on the liquidation amount of $1,000 per Stripped APEX, accruing for each Stripped APEX from the Regular Distribution Date immediately preceding its issuance. Not later than each Additional Distribution Date on which any Stripped APEX are outstanding, the Collateral Agent will reinvest the proceeds of maturing Qualifying Treasury Securities on behalf of the Trust in securities that are Qualifying Treasury Securities as of such date, in each case having the same principal amount at maturity as the maturing Qualifying Treasury Securities. The Collateral Agent will invest the excess of the proceeds over the cost of the replacement securities in cash equivalents, and deliver to the Trust for distribution to the holders of Stripped APEX, on each Additional Distribution Date (or as promptly thereafter as the Collateral Agent and the paying agent determine to be practicable), an amount, or "*Excess Proceeds Distribution*," equal to the excess of $1,000 per Stripped APEX over the cost of such replacement Qualifying Treasury Securities *plus* any interest earned on those cash equivalents from the maturity date until the Additional Distribution Date. Since the principal amount of the Qualifying Treasury Securities will be used to pay the purchase price under the Stock Purchase Contracts on the Stock Purchase Date, the Excess Proceeds Distribution on the Stock Purchase Date will consist only of interest earned from the maturity date of the Qualifying Treasury Securities through the Stock Purchase Date, if any.

For as long as they hold the Capital APEX, the holders of the Stripped APEX will continue to receive the scheduled distributions on the Capital APEX that were delivered to them when the Stripped APEX were created, subject to our right to defer interest payments on the Notes. Each Stripped APEX will automatically, without any action by holders being necessary, become a Normal APEX on the business day following the Stock Purchase Date and be entitled to receive the same current payments as each Normal APEX after the Stock Purchase Date; *provided* that if after a Failed Remarketing we have issued Additional Notes to the Trust in respect of deferred interest on the Notes, the Stripped APEX will only become Normal APEX on the business day after such Additional Notes have been paid in full. In this case, the Stripped APEX will not become Normal APEX until we have paid all amounts due on these Additional Notes, and until then the holders of Stripped APEX will be entitled to receive on each Regular Distribution Date distributions corresponding to the dividends on the Preferred.

Capital APEX. Subject to the deferral provisions described below, holders of Capital APEX will be entitled to receive cumulative cash distributions semi-annually on each June 1 and December 1, commencing on the later of the first such date on which Capital APEX are outstanding and

December 1, 2007, corresponding to interest on the Notes accruing for each Distribution Period ending on such date at a rate equal to 5.593% *per annum* on the liquidation amount of $1,000 per Capital APEX. If the Stock Purchase Date occurs on a date that is not a semi-annual distribution date and the Notes have not been successfully remarketed, that date will also be an interest payment date on the Notes and, accordingly, subject to the deferral provisions described below, holders of Capital APEX will receive a distribution on that date corresponding to interest on the Notes.

The distributions paid on any Capital APEX Distribution Date will include any additional amounts or deferred interest amounts received by the Trust on the Notes that are corresponding assets for the Capital APEX, as well as payments of interest on and principal of any Additional Notes we issue to the Trust on the Stock Purchase Date in respect of deferred interest on the Notes, if any.

Upon a successful Remarketing, we may elect to change the rate of interest on the Notes from and after the Remarketing Settlement Date, as described below under "Description of the Junior Subordinated Notes — Remarketing." Accordingly, distributions will accrue on the Capital APEX that are not disposed of in connection with the Remarketing from and including the Remarketing Settlement Date to but excluding the date on which they are redeemed in exchanged for Notes at the rate established in the Remarketing.

Deferral of Contract Payments and Interest Payments. We may at our option, and will if so directed by the SEC, defer the Contract Payments until no later than the Stock Purchase Date as described under "Description of the Stock Purchase Contracts — Option to Defer Contract Payments" below. As a consequence, the Trust will defer corresponding distributions on the Normal APEX and the Stripped APEX during the deferral period. Deferred Contract Payments will accrue interest until paid, compounded on each Regular Distribution Date, at a rate equal to 5.593% *per annum*. If we elect to defer the payment of Contract Payments until the Stock Purchase Date, then we will pay the Trust the deferred Contract Payments in Additional Notes, that have a principal amount equal to the aggregate amount of deferred Contract Payments as of the Stock Purchase Date, mature on the later of June 1, 2017 and five years after commencement of the related deferral period, bear interest at a rate equal to 5.593% *per annum*, originally applicable to the Notes, are subordinate and rank junior in right of payment to all of our senior and subordinated debt on the same basis as the Contract Payments, permit us to optionally defer interest on the same basis as the Notes and are redeemable by us at any time prior to their stated maturity. The notes will be issued as a new series of notes under our subordinated debt indenture described below under "Description of the Junior Subordinated Notes."

Also, we may at our option, and will if so directed by the SEC, defer cash payments of interest on the Notes that are owned by the Trust for up to seven years (or if later, until June 1, 2014), in which case the deferred amounts will accrue additional interest at the applicable rate then borne by the Notes. As a consequence, the Trust will defer corresponding distributions on the Normal APEX (prior to the Stock Purchase Date, or if earlier, the Remarketing Settlement Date) and on the Capital APEX during the deferral period. Deferred distributions to which you are entitled will accrue interest, from the relevant Distribution Date during any deferral period, at the rate originally applicable to the Notes compounded on each interest payment date with respect to the Notes, to the extent permitted by applicable law.

During any period that we are deferring Contract Payments or interest on the Notes (and, accordingly, the Trust is deferring distributions on the APEX) or have issued but not yet repaid in full Additional Notes in respect of deferred interest or deferred Contract Payments, we will be restricted, subject to certain exceptions, from making certain payments, including declaring or paying any dividends or making any distributions on, or redeeming, purchasing, acquiring or making a liquidation payment with respect to, shares of our capital stock as described under "Description of the Junior Subordinated Notes — Restrictions on Certain Payments, including on Deferral of Interest" below. If we have elected to defer interest on the Notes and there is a Failed Remarketing, then we will pay the Trust the deferred interest in Additional Notes. If we issue any Additional Notes, the foregoing

covenant will also apply to the payment of interest on and principal of these notes except that the reference to termination of the deferral period shall instead be to the maturity date of the Additional Notes.

Agreed Tax Treatment of the APEX

As a beneficial owner of APEX, by acceptance of the beneficial interest therein, you will be deemed to have agreed, for all U.S. federal income tax purposes:

- to treat yourself as the owner of:
  - for each Normal APEX or Stripped APEX, a 1/100th interest in a Contract;
  - for each Normal APEX or Capital APEX, $1,000 principal amount of Notes;
  - for each Stripped APEX, $1,000 principal amount of Qualifying Treasury Securities; and
  - for each Normal APEX participating in the Remarketing, its *pro rata* portion of the U.S. treasury securities purchased with the proceeds of the Remarketing;
- to treat the Trust as one or more grantor trusts or agency arrangements;
- to treat the fair market value of the $1,000 principal amount of Notes corresponding to one Normal APEX as $1,000 and the fair market value of a 1/100th fractional interest in a Contract corresponding to one Normal APEX as $0 at the time of initial purchase;
- to treat the Notes as our indebtedness; and
- to treat stated interest on the Notes as ordinary interest income that is includible in your gross income at the time the interest is paid or accrued in accordance with your regular method of tax accounting, and otherwise to treat the Notes as described in "Supplemental U.S. Federal Income Tax Considerations — Taxation of the Junior Subordinated Notes" below.

Remarketing of the Junior Subordinated Notes

The Trust will attempt to remarket the Notes in order to fund the purchase of the Preferred on the Stock Purchase Date under the Contracts in a process we call "*Remarketing*." If a Remarketing is successful, the interest rate on and certain other terms of the Notes may be changed, as a result of which the distribution rate, distribution dates and other terms of the Capital APEX may also change. We describe the timing of the Remarketing and how the Remarketing will be conducted under "Description of the Junior Subordinated Notes — Remarketing" below and "— Early Remarketing" below. In this section we describe choices that you may make in connection with a Remarketing as a holder of Normal APEX or Capital APEX.

Normal APEX. If you hold Normal APEX, you may decide that, in the event a Remarketing is successful, you would prefer to exchange your Normal APEX for Stripped APEX and Capital APEX instead of continuing to hold your Normal APEX. You may make a contingent exchange election by transferring your Normal APEX to the Transfer Agent and the notice of contingent exchange election in the form set forth on the reverse side of the Normal APEX certificate executed and completed as indicated during the period that commences on the tenth business day immediately preceding the beginning of any Remarketing Period and ending at 3:00 P.M., New York City time, on the second business day before the beginning of that Remarketing Period and depositing Qualifying Treasury Securities having a principal amount equal to the liquidation amount of your Normal APEX on the date of deposit with the Collateral Agent on or prior to 3:00 P.M., New York City time, on the second business day before the beginning of that Remarketing Period.

If the Notes are successfully remarketed during that Remarketing Period and you have made an effective election, your Normal APEX will be cancelled and you will receive Stripped APEX and Capital

APEX having the same liquidation amount on or promptly after the Remarketing Settlement Date. As with any other exchange of Normal APEX and Qualifying Treasury Securities for Stripped APEX and Capital APEX, you will be able to trade the Stripped APEX and Capital APEX separately. As a result of the successful Remarketing, the Stock Purchase Date will occur on the March 1, June 1, September 1 and December 1 next following the Remarketing Settlement Date, or if such date is not a business day, the next business day, and on the business day following the Stock Purchase Date each Stripped APEX will automatically be and become a Normal APEX, corresponding to 1/100th of a share of Preferred held by the Trust. Each Capital APEX you receive will correspond to $1,000 principal amount of Notes beneficially owned by the Trust and the Trust will redeem the Capital APEX promptly after the Remarketing Settlement Date in exchange for the corresponding Notes.

If you have given notice of a contingent exchange election but fail to deliver the Qualifying Treasury Securities to the Collateral Agent by 3:00 P.M., New York City time, on the second business day before the beginning of the applicable Remarketing Period, the notice will be void and your Normal APEX will be returned to you promptly after the end of that Remarketing Period.

If you have given notice of a contingent exchange election and delivered the Qualifying Treasury Securities but the Remarketing is unsuccessful, your Qualifying Treasury Securities will be promptly returned to you by the Collateral Agent and your Normal APEX certificates will be promptly returned to you by the Transfer Agent.

Capital APEX. If you hold Capital APEX, you may decide that, in the event a Remarketing is successful, you would prefer to dispose of your Capital APEX and receive the net cash proceeds of the Remarketing of the Notes. You may make a contingent disposition election by transferring your Capital APEX to the Transfer Agent and the notice of contingent disposition election in the form set forth on the reverse side of the Capital APEX certificate executed and completed as indicated during the period that commences on the tenth business day immediately preceding the beginning of a Remarketing Period and ending at 3:00 P.M., New York City time, on the second business day immediately preceding the beginning of any Remarketing Period. If the Notes are successfully remarketed during that Remarketing Period and you have made an effective election, on or promptly after the Remarketing Settlement Date, your Capital APEX will be cancelled and you will receive an amount in cash equal to the net proceeds of the sale of $1,000 principal amount of Notes in the Remarketing for each $1,000 liquidation amount of Capital APEX with respect to which you made your election.

If you have given notice of a contingent disposition election but the Remarketing is unsuccessful, your Capital APEX will remain outstanding and the certificates will be promptly returned to you by the Transfer Agent.

Stripped APEX. The timing and success or failure of any Remarketing affects the timing of the Stock Purchase Date, and thus the date upon which holders of Stripped APEX cease to receive distributions corresponding to Contract Payments and Additional Distributions and begin to receive distributions corresponding to the non-cumulative dividends on the Preferred. Unless there has been a Failed Remarketing and we have issued Additional Notes in respect of deferred interest on the Notes, each Stripped APEX automatically, without any action by holders being necessary, will become a Normal APEX on the business day after the Stock Purchase Date.

Otherwise, each Stripped APEX automatically, without any action by holders being necessary, will become a Normal APEX on the business day after we have paid all amounts due on the Additional Notes.

Mandatory Redemption of Normal APEX upon Redemption of Series E Preferred Stock

The Normal APEX have no stated maturity but must be redeemed on the date we redeem the Preferred, and the Property Trustee or paying agent will apply the proceeds from such repayment or redemption to redeem a like amount, as defined below, of the Normal APEX. The Preferred is

perpetual but we may redeem it on any Dividend Payment Date occurring on or after the later of June 1, 2012 and the Stock Purchase Date, subject to certain limitations. See "Description of the Series E Preferred Stock — Redemption" below and "Replacement Capital Covenant" below. The redemption price per Normal APEX will equal the redemption price of the corresponding assets. See "Description of the Series E Preferred Stock — Redemption" below. If notice of redemption of any Preferred has been given and if the funds necessary for the redemption have been set aside by us for the benefit of the holders of any shares of Preferred so called for redemption, then, from and after the redemption date, those shares shall no longer be deemed outstanding and all rights of the holders of those shares (including the right to receive any dividends) will terminate, except the right to receive the redemption price.

If less than all of the shares of Preferred held by the Trust are to be redeemed on a redemption date, then the proceeds from such redemption will be allocated *pro rata* to the redemption of the Normal APEX and the Trust Common Securities, except as set forth below under "— Ranking of Trust Common Securities."

The term "*like amount*" as used above means Normal APEX having a liquidation amount equal to that portion of the liquidation amount of the Preferred to be contemporaneously redeemed, the proceeds of which will be used to pay the redemption price of such Normal APEX.

Mandatory Redemption of Capital APEX upon Maturity of the Junior Subordinated Notes

The Capital APEX have no stated maturity but must be redeemed, if they remain outstanding, in cash upon the date the Notes mature or are redeemed. On each date the Capital APEX must be redeemed, or "*Capital APEX Mandatory Redemption Date*," the Property Trustee or paying agent will apply the proceeds from the repayment or redemption of Notes to redeem a like amount, as defined below, of the Capital APEX. The stated maturity of the Notes is June 1, 2043 or on such earlier date on or after June 1, 2016 as we may elect in connection with the Remarketing. As a result, we may move up the Capital APEX Mandatory Redemption Date to any date on or after the Stock Purchase Date in connection with a Remarketing; *provided* that if we are deferring interest on the Notes at the time of the Remarketing, any new stated maturity date and Capital APEX Mandatory Redemption Date may not be earlier than seven years after commencement of the deferral period. The redemption price per Capital APEX will equal the liquidation amount per Capital APEX *plus* accumulated and unpaid distributions to but excluding the redemption date. Changes we may make to the early redemption provisions of the Notes in connection with a successful Remarketing will not affect the redemption of the Capital APEX since the Trust will redeem them for Notes upon a successful Remarketing.

The term "*like amount*" as used above means Capital APEX having a liquidation amount equal to that portion of the principal amount of Notes to be contemporaneously redeemed in accordance with the Indenture, the proceeds of which will be used to pay the redemption price of such Capital APEX.

Conditional Right to Redeem the APEX upon a Special Event

The Contracts will automatically terminate and the Trust will redeem the APEX if we exercise our right to redeem all, but not less than all, of the Notes prior to the Stock Purchase Date upon the occurrence of certain special events. The redemption price of the Notes in the case of a redemption in connection with a rating agency event or tax event will be equal to the greater of 100% of their principal amount and a make-whole redemption price, *plus* in each case accrued and unpaid interest through the date of redemption. The redemption price of the Notes in the case of a redemption in connection with a capital treatment or investment company event will be equal to 100% of their principal amount, *plus* accrued and unpaid interest through the date of redemption. Holders of Normal APEX and Capital APEX will receive an amount in cash equal to the redemption price of the Notes that are corresponding assets of their APEX and holders of Stripped APEX will receive the Qualifying Treasury Securities that are corresponding assets of their Stripped APEX. Holders of Normal APEX and Stripped APEX will also receive accrued and unpaid Contract Payments through the date of

redemption with respect to the interests in Contracts that are corresponding assets of their APEX. For a description of the special events that would permit us to redeem the Notes and the make-whole redemption price, see "Description of the Junior Subordinated Notes — Redemption" below.

Redemption of Capital APEX for Junior Subordinated Notes in Connection with Remarketing

If the Notes are successfully remarketed, the Trust must redeem in kind the Capital APEX in whole but not in part in exchange for a principal amount of Notes equal to the liquidation amount of each Capital APEX so redeemed promptly after the Remarketing Settlement Date. On the redemption date, the Capital APEX will be cancelled and you will receive Notes.

If a Failed Remarketing occurs but on the Stock Purchase Date there is no deferred interest amount outstanding on the Notes, then promptly after the Stock Purchase Date the Trust must redeem the Capital APEX, in whole but not in part, in kind in exchange for a like amount of Notes. If a Failed Remarketing occurs and there is a deferred interest amount outstanding on the Stock Purchase Date, or if the Contracts are terminated before the Stock Purchase Date, then we may instruct the Trust at any time thereafter when there is no deferred interest amount outstanding to redeem the Capital APEX, in whole but not in part, in kind in exchange for a like amount of Notes.

Redemption Procedures

Notice of any redemption will be mailed at least 30 days (or at least 15 days for a redemption in kind after a successful Remarketing) but not more than 60 days before the redemption date to the registered address of each holder of APEX to be redeemed.

If (i) the Trust gives an irrevocable notice of redemption of any series of APEX for cash and (ii) we have paid to the Property Trustee a sufficient amount of cash in connection with the related redemption or maturity of the Notes or Preferred, then on the redemption date, the Property Trustee will irrevocably deposit with DTC funds sufficient to pay the redemption price for the series of APEX being redeemed. See "Book-Entry System" below. The Trust will also give DTC irrevocable instructions and authority to pay the redemption amount in immediately available funds to the beneficial owners of the global securities representing the APEX or in the case of a redemption of Capital APEX in exchange for Notes after the Remarketing Settlement Date, to credit Notes having a principal amount equal to the liquidation amount of the Capital APEX to the beneficial owners of the global securities representing the Capital APEX. Distributions to be paid on or before the redemption date for any APEX called for redemption will be payable to the holders as of the record dates for the related dates of distribution. If the APEX called for redemption are no longer in book-entry form, the Property Trustee, to the extent funds are available, will irrevocably deposit with the paying agent for the APEX funds sufficient to pay the applicable redemption price and will give such paying agent irrevocable instructions and authority to pay the redemption price to the holders thereof upon surrender of their certificates evidencing the APEX.

If notice of redemption shall have been given and funds deposited as required, then upon the date of such deposit:

- all rights of the holders of such APEX called for redemption will cease, except the right of the holders of such APEX to receive the redemption price and any distribution payable in respect of the APEX on or prior to the redemption date, but without interest on such redemption price, or in the case of a redemption of Capital APEX in exchange for Notes after the Remarketing Settlement Date, the right to receive the Notes; and

- the APEX called for redemption will cease to be outstanding.

If any redemption date is not a business day, then the redemption amount will be payable on the next business day (and without any interest or other payment in respect of any such delay). However,

if payment on the next business day causes payment of the redemption amount to be in the next calendar month, then payment will be on the preceding business day.

If payment of the redemption amount for any Notes or shares of Preferred called for redemption is improperly withheld or refused and accordingly the redemption amount of the relevant series of APEX is not paid either by the Trust or by us under the Guarantee, then interest on the Notes, or dividends on the Preferred, as the case may be, will continue to accrue and distributions on such series of APEX called for redemption will continue to accumulate at the applicable rate then borne by such APEX from the original redemption date scheduled to the actual date of payment. In this case, the actual payment date will be considered the redemption date for purposes of calculating the redemption amount.

Redemptions of the APEX will require prior approval of the SEC.

If less than all of the outstanding shares of Preferred are to be redeemed on a redemption date, then the aggregate liquidation amount of Normal APEX and Trust Common Securities to be redeemed shall be allocated *pro rata* to the Normal APEX and Trust Common Securities based upon the relative liquidation amounts of such series, except as set forth below under "— Ranking of Trust Common Securities." The Property Trustee will select the particular Normal APEX to be redeemed on a *pro rata* basis not more than 60 days before the redemption date from the outstanding Normal APEX not previously called for redemption by any method the Property Trustee deems fair and appropriate, or if the Normal APEX are in book-entry only form, in accordance with the procedures of DTC. The Property Trustee shall promptly notify the Transfer Agent in writing of the Normal APEX selected for redemption and, in the case of any Normal APEX selected for redemption in part, the liquidation amount to be redeemed.

If less than all of the outstanding Capital APEX are to be redeemed on a redemption date, then the Property Trustee will select the particular Capital APEX to be redeemed on a *pro rata* basis based upon their respective liquidation amounts not more than 60 days before the redemption date from the outstanding Capital APEX not previously called for redemption by any method the Property Trustee deems fair and appropriate, or if the Capital APEX are in book-entry only form, in accordance with the procedures of DTC. The Property Trustee shall promptly notify the Transfer Agent in writing of the Capital APEX selected for redemption and, in the case of any Capital APEX selected for partial redemption, the liquidation amount to be redeemed.

For all purposes of the Trust Agreement, unless the context otherwise requires, all provisions relating to the redemption of APEX shall relate, in the case of any APEX redeemed or to be redeemed only in part, to the portion of the aggregate liquidation amount of APEX that has been or is to be redeemed. If less than all of the Normal APEX or Capital APEX are redeemed, the Normal APEX or Capital APEX held through the facilities of DTC will be redeemed *pro rata* in accordance with DTC's internal procedures. See "Book-Entry System" below.

Subject to applicable law, including, without limitation, U.S. federal securities laws and, at all times prior to the date that is ten years after the Stock Purchase Date, the Replacement Capital Covenant, and subject to the SEC's CSE Rules applicable to consolidated supervised entities, we or our affiliates may at any time and from time to time purchase outstanding APEX of any series by tender, in the open market or by private agreement.

Liquidation Distribution upon Dissolution

Pursuant to the Trust Agreement, the Trust shall dissolve on the first to occur of:

- certain events of bankruptcy, dissolution or liquidation of GS Group;
- redemption of all of the APEX as described above; and
- the entry of an order for the dissolution of the Trust by a court of competent jurisdiction.

Except as set forth in the next paragraph, if an early dissolution occurs as a result of certain events of bankruptcy, dissolution or liquidation of GS Group, the Property Trustee and the administrative trustees will liquidate the Trust as expeditiously as they determine possible by distributing, after satisfaction of liabilities to creditors of the Trust as provided by applicable law, to each holder of APEX of each series a like amount of corresponding assets as of the date of such distribution. Except as set forth in the next paragraph, if an early dissolution occurs as a result of the entry of an order for the dissolution of the Trust by a court of competent jurisdiction, unless otherwise required by applicable law, the Trust will not be liquidated until after the Stock Purchase Date but, commencing promptly thereafter, the Property Trustee will liquidate the Trust as expeditiously as it determines to be possible by distributing, after satisfaction of liabilities to creditors of the Trust as provided by applicable law, to each holder of APEX of each series a like amount of corresponding assets as of the date of such distribution. The Property Trustee shall give notice of liquidation to each holder of APEX at least 30 days and not more than 60 days before the date of liquidation.

If, whether because of an order for dissolution entered by a court of competent jurisdiction or otherwise, the Property Trustee determines that distribution of the corresponding assets in the manner provided above is not possible, or if the early dissolution occurs as a result of the redemption of all the APEX, the Property Trustee shall liquidate the property of the Trust and wind up its affairs. In that case, upon the winding up of the Trust, except with respect to an early dissolution that occurs as a result of the redemption of all the APEX, the holders will be entitled to receive out of the assets of the Trust available for distribution to holders and after satisfaction of liabilities to creditors of the Trust as provided by applicable law, an amount equal to the aggregate liquidation amount per Trust security *plus* accrued and unpaid distributions to the date of payment. If, upon any such winding up, the Trust has insufficient assets available to pay in full such aggregate liquidation distribution, then the amounts payable directly by the Trust on its Trust securities shall be paid on a *pro rata* basis, except as set forth above under "— Ranking of Trust Common Securities."

The term "*like amount*" as used above means:

- with respect to a distribution of Notes to holders of any Normal APEX, Capital APEX or Trust Common Securities in connection with a dissolution or liquidation of the Trust or a redemption in kind of Capital APEX, Notes having a principal amount equal to the liquidation amount of the APEX or Trust Common Securities of the holder to whom such Notes would be distributed; and

- with respect to a distribution of Preferred to holders of Normal APEX in connection with a dissolution or liquidation of the Trust therefor, Preferred having a Liquidation Preference equal to the liquidation amount of the Normal APEX of the holder to whom such Preferred would be distributed.

Distribution of Trust Assets

Upon liquidation of the Trust other than as a result of an early dissolution upon the redemption of all the APEX and after satisfaction of the liabilities of creditors of the Trust as provided by applicable law, the assets of the Trust will be distributed to the holders of such Trust securities in exchange therefor.

After the liquidation date fixed for any distribution of assets of the Trust:

- the APEX will no longer be deemed to be outstanding;

- if the assets to be distributed are Notes, Additional Notes, if any, or shares of Preferred, DTC or its nominee, as the record holder of the APEX, will receive a registered global certificate or certificates representing the Notes, Additional Notes and Preferred to be delivered upon such distribution and if the assets to be distributed are Qualifying Treasury Securities that are Pledged Securities, such securities will be delivered in book-entry form;

- any certificates representing the Capital APEX not held by DTC or its nominee or surrendered to the exchange agent will be deemed to represent the Notes having a principal amount equal to the liquidation amount of the Capital APEX, and bearing accrued and unpaid interest in an amount equal to the accrued and unpaid distributions on the Capital APEX until such certificates are so surrendered for transfer or reissuance (and until such certificates are surrendered, no payments of interest, principal, dividends, redemption price or otherwise will be made to holders);

- any certificates representing the Normal APEX not held by DTC or its nominee or surrendered to the exchange agent will be deemed to represent shares of Preferred having a Liquidation Preference equal to the Normal APEX until such certificates are so surrendered for transfer and reissuance; and

- all rights of the holders of the APEX will cease, except the right to receive Notes, Qualifying Treasury Securities or Preferred, as the case may be, upon such surrender.

Since after the Stock Purchase Date each Normal APEX corresponds to 1/100th of a share of Preferred, holders of Normal APEX may receive fractional shares of Preferred or depositary shares representing the Preferred upon this distribution.

Ranking of Trust Common Securities

If on any Distribution Date the Trust does not have funds available from payments of interest on the Notes, dividends on the Preferred or Contract Payments on the Contracts (as applicable) to make full distributions on the APEX and the Trust Common Securities (other than as a result of the proper exercise of our deferral right in respect of interest or Contract Payments), then:

- if such deficiency in funds results from our failure to make a full payment of interest on the Notes on any interest payment date, then the available funds shall be applied first to make distributions then due on the Normal APEX and the Capital APEX on a *pro rata* basis on such Distribution Date up to the amount of such distributions corresponding to interest payments on the Notes (or if less, the amount of the corresponding distribution that would have been made on the Normal APEX and Capital APEX had we made a full payment of interest on the Notes) before any such amount is applied to make a distribution on the Trust Common Securities on such Distribution Date;

- if the deficiency in funds results from our failure to make a full payment of Contract Payments on the Contracts on a payment date for Contract Payments, then the available funds shall be applied first to make distributions then due on the Normal APEX and the Stripped APEX on a *pro rata* basis on such Distribution Date up to the amount of such distributions corresponding to the Contract Payments on the Contracts (or if less, the amount of the corresponding distributions that would have been made on the Normal APEX and the Stripped APEX had we made a full payment of Contract Payments on the Contracts) before any such amount is applied to make a distribution on the Trust Common Securities on such Distribution Date; and

- if the deficiency in funds results from our failure to pay a full dividend on shares of Preferred on a Dividend Payment Date, then the available funds from dividends on the Preferred shall be applied first to make distributions then due on the Normal APEX on a *pro rata* basis on such Distribution Date up to the amount of such distributions corresponding to dividends on the Preferred (or if less, the amount of the corresponding distributions that would have been made on the Normal APEX had we paid a full dividend on the Preferred) before any such amount is applied to make a distribution on Trust Common Securities on such Distribution Date.

If on any date where Normal APEX and Trust Common Securities must be redeemed because we are redeeming Preferred and the Trust does not have funds available from our redemption of shares of Preferred to pay the full redemption price then due on all of the outstanding Normal APEX and Trust Common Securities to be redeemed, then (i) the available funds shall be applied first to pay the redemption price on the Normal APEX to be redeemed on such redemption date and (ii) Trust Common Securities shall be redeemed only to the extent funds are available for such purpose after the payment of the full redemption price on the Normal APEX to be redeemed.

If an early dissolution event occurs in respect of the Trust, no liquidation distributions shall be made on the Trust Common Securities until full liquidation distributions have been made on each series of the APEX.

In the case of any event of default under the Trust Agreement resulting from (i) an event of default under the Indenture or (ii) our failure to comply in any material respect with any of our obligations under the Stock Purchase Contract Agreement or as issuer of the Preferred, including obligations set forth in our restated certificate of incorporation, as amended, or "*restated certificate of incorporation*," or arising under applicable law, we, as holder of the Trust Common Securities, will be deemed to have waived any right to act with respect to any such event of default under the Trust Agreement until the effect of all such events of default with respect to the APEX have been cured, waived or otherwise eliminated. Until all events of default under the Trust Agreement have been so cured, waived or otherwise eliminated, the Property Trustee shall act solely on behalf of the holders of the APEX and not on our behalf, and only the holders of the APEX will have the right to direct the Property Trustee to act on their behalf.

Events of Default; Notice

Any one of the following events constitutes an event of default under the Trust Agreement, or a "*Trust Event of Default*," regardless of the reason for such event of default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body:

- the occurrence of an event of default under the Indenture with respect to the Notes beneficially owned by the Trust;
- the failure to comply in any material respect with our obligations (i) under the Stock Purchase Contract Agreement or (ii) as issuer of the Preferred, under our restated certificate of incorporation, or those of the Trust, or arising under applicable law;
- the default by the Trust in the payment of any distribution on any Trust security of the Trust when such becomes due and payable, and continuation of such default for a period of 30 days;
- the default by the Trust in the payment of any redemption price of any Trust security of the Trust when such becomes due and payable;
- the failure to perform or the breach, in any material respect, of any other covenant or warranty of the trustees in the Trust Agreement for 90 days after the defaulting trustee or trustees have received written notice of the failure to perform or breach in the manner specified in such Trust Agreement; or
- the occurrence of certain events of bankruptcy or insolvency with respect to the Property Trustee and our failure to appoint a successor Property Trustee within 90 days.

Within 30 days after any Trust Event of Default actually known to the Property Trustee occurs, the Property Trustee will transmit notice of such Trust Event of Default to the holders of the affected series of Trust securities and to the administrative trustees, unless such Trust Event of Default shall have been cured or waived. We, as sponsor, and the administrative trustees are required to file annually

with the Property Trustee a certificate as to whether or not we or they are in compliance with all the conditions and covenants applicable to us and to them under the Trust Agreement.

The existence of a Trust Event of Default under the Trust Agreement, in and of itself, with respect to the Notes does not entitle the holders of the Normal APEX or the Capital APEX to accelerate the maturity of such Notes.

Removal of Trustees

Unless an event of default under the Indenture has occurred and is continuing, the Property Trustee and/or the Delaware Trustee may be removed at any time by the holder of the Trust Common Securities. The Property Trustee and the Delaware Trustee may be removed by the holders of a majority in liquidation amount of the outstanding APEX for cause or by the holders of a majority in liquidation amount of the Normal APEX and the Capital APEX if an event of default under the Indenture has occurred and is continuing. In no event will the holders of the APEX have the right to vote to appoint, remove or replace the administrative trustees, which voting rights are vested exclusively in us, as the holder of the Trust Common Securities. No resignation or removal of a trustee and no appointment of a successor trustee shall be effective until the acceptance of appointment by the successor trustee in accordance with the provisions of the Trust Agreement.

Co-Trustees and Separate Property Trustee

Unless an event of default under the Indenture shall have occurred and be continuing, at any time or from time to time, for the purpose of meeting the legal requirements of the Trust Indenture Act or of any jurisdiction in which any part of the Trust property may at the time be located, we, as the holder of the Trust Common Securities, and the administrative trustees shall have the power to appoint one or more persons either to act as a co-trustee, jointly with the Property Trustee, of all or any part of such Trust property, or to act as separate trustee of any such property, in either case with such powers as may be provided in the instrument of appointment, and to vest in such person or persons in such capacity any property, title, right or power deemed necessary or desirable, subject to the provisions of such Trust Agreement. If an event of default under the Indenture has occurred and is continuing, the Property Trustee alone shall have power to make such appointment.

Merger or Consolidation of Trustees

Any person into which the Property Trustee or the Delaware Trustee, if not a natural person, may be merged or converted or with which it may be consolidated, or any person resulting from any merger, conversion or consolidation to which such trustee shall be a party, or any person succeeding to all or substantially all the corporate trust business of such trustee, shall be the successor of such trustee under the Trust Agreement, *provided* that such person shall be otherwise qualified and eligible.

Mergers, Consolidations, Amalgamations or Replacements of the Trust

The Trust may not merge with or into, consolidate, amalgamate, or be replaced by, or convey, transfer or lease its properties and assets substantially as an entirety to us or any other person, except as described below or as otherwise described in the Trust Agreement. The Trust may, at our request, with the consent of the administrative trustees but without the consent of the holders of the APEX, the Property Trustee or the Delaware Trustee, merge with or into, consolidate, amalgamate, or be replaced by, or convey, transfer or lease its properties and assets substantially as an entirety to, the Trust organized as such under the laws of any state if:

- such successor entity either:
  - expressly assumes all of the obligations of the Trust with respect to the APEX, or

- substitutes for each series of APEX other securities having substantially the same terms as that series of APEX, or the "*Successor Securities*," so long as the Successor Securities rank the same as the corresponding series of APEX in priority with respect to distributions and payments upon liquidation, redemption and otherwise;

- a trustee of such successor entity possessing the same powers and duties as the Property Trustee is appointed to hold the Notes, the Contracts, Qualifying Treasury Securities and the Preferred then held by or on behalf of the Property Trustee;

- such merger, consolidation, amalgamation, replacement, conveyance, transfer or lease does not cause any series of APEX, including any Successor Securities, to be downgraded by any nationally recognized statistical rating organization;

- such merger, consolidation, amalgamation, replacement, conveyance, transfer or lease does not adversely affect the rights, preferences and privileges of the holders of any series of APEX, including any Successor Securities, in any material respect;

- such successor entity has purposes substantially identical to those of the Trust;

- prior to such merger, consolidation, amalgamation, replacement, conveyance, transfer or lease, the Property Trustee has received an opinion from counsel to the Trust experienced in such matters to the effect that:

  - such merger, consolidation, amalgamation, replacement, conveyance, transfer or lease does not adversely affect the rights, preferences and privileges of the holders of any series of APEX, including any Successor Securities, in any material respect, and

  - following such merger, consolidation, amalgamation, replacement, conveyance, transfer or lease, neither the Trust nor such successor entity will be required to register as an investment company under the Investment Company Act of 1940, or "*Investment Company Act*";

- the Trust has received an opinion of counsel experienced in such matters that such merger, consolidation, amalgamation, conveyance, transfer or lease will not cause the Trust or the successor entity to be classified as an association or a publicly traded partnership taxable as a corporation for U.S. federal income tax purposes; and

- we or any permitted successor or assignee owns all of the common securities of such successor entity and guarantees the obligations of such successor entity under the Successor Securities at least to the extent provided by the Guarantee.

Notwithstanding the foregoing, the Trust may not, except with the consent of holders of 100% in liquidation amount of the APEX, consolidate, amalgamate, merge with or into, or be replaced by or convey, transfer or lease its properties and assets substantially as an entirety to any other entity or permit any other entity to consolidate, amalgamate, merge with or into, or replace it if such consolidation, amalgamation, merger, replacement, conveyance, transfer or lease would cause the Trust or the successor entity to be classified as other than one or more grantor trusts or agency arrangements or to be classified as an association or a publicly traded partnership taxable as a corporation for U.S. federal income tax purposes.

Voting Rights; Amendment of the Trust Agreement

Except as provided herein and under "Description of the Guarantee — Amendments and Assignment" below and as otherwise required by law and the Trust Agreement, the holders of the APEX will have no voting rights or control over the administration, operation or management of the Trust or the obligations of the parties to the Trust Agreement, including in respect of Notes, Contracts or Preferred

beneficially owned by the Trust. Under the Trust Agreement, however, the Property Trustee will be required to obtain their consent before exercising some of its rights in respect of these securities.

Trust Agreement. We and the administrative trustees may amend the Trust Agreement without the consent of the holders of the APEX, the Property Trustee or the Delaware Trustee, unless in the case of the first two bullets below such amendment will materially and adversely affect the interests of any holder of APEX or the Property Trustee or the Delaware Trustee or impose any additional duty or obligation on the Property Trustee or the Delaware Trustee, to:

- cure any ambiguity, correct or supplement any provisions in the Trust Agreement that may be inconsistent with any other provision, or to make any other provisions with respect to matters or questions arising under such Trust Agreement, which may not be inconsistent with the other provisions of the Trust Agreement;
- modify, eliminate or add to any provisions of the Trust Agreement to such extent as shall be necessary to ensure that the Trust will be classified for U.S. federal income tax purposes as one or more grantor trusts or agency arrangements and not as an association or a publicly traded partnership taxable as a corporation at all times that any Trust securities are outstanding, to ensure that the Trust will not be required to register as an "investment company" under the Investment Company Act or to ensure the treatment of the APEX as Allowable Capital in accordance with the SEC's CSE Rules;
- provide that certificates for the APEX may be executed by an administrative trustee by facsimile signature instead of manual signature, in which case such amendment(s) shall also provide for the appointment by us of an authentication agent and certain related provisions;
- require that holders that are not U.S. persons for U.S. federal income tax purposes irrevocably appoint a U.S. person to exercise any voting rights to ensure that the Trust will not be treated as a foreign trust for U.S. federal income tax purposes; or
- conform the terms of the Trust Agreement to the description of the Trust Agreement, the APEX and the Trust Common Securities in this prospectus supplement, in the manner provided in the Trust Agreement.

Any such amendment shall become effective when notice thereof is given to the Property Trustee, the Delaware Trustee and the holders of the APEX.

We and the administrative trustees may generally amend the Trust Agreement with:

- the consent of holders representing not less than a majority, based upon liquidation amounts, of each outstanding series of APEX affected by the amendments; and
- receipt by the administrative trustees of the Trust of an opinion of counsel to the effect that such amendment or the exercise of any power granted to the administrative trustees of the Trust or the administrative trustees in accordance with such amendment will not affect the Trust's status as one or more grantor trusts or agency arrangements for U.S. federal income tax purposes or affect the Trust's exemption from status as an "investment company" under the Investment Company Act.

However, without the consent of each affected holder of Trust securities, the Trust Agreement may not be amended to:

- change the amount or timing, or otherwise adversely affect the amount, of any distribution required to be made in respect of Trust securities as of a specified date; or
- restrict the right of a holder of Trust securities to institute a suit for the enforcement of any such payment on or after such date.

Indenture and Junior Subordinated Notes. So long as the Property Trustee holds any Notes, the trustees of the Trust may not, without obtaining the prior approval of the holders of a majority in aggregate liquidation amount of all outstanding Capital APEX and the Normal APEX (if prior to the Stock Purchase Date or if earlier, the Remarketing Settlement Date), considered together as a single class:

- direct the time, method and place of conducting any proceeding for any remedy available to the Indenture Trustee for the Notes, or execute any trust or power conferred on the Indenture Trustee with respect to such Notes;
- waive any past default that is waivable under the Indenture;
- exercise any right to rescind or annul a declaration that the principal of all the Notes is due and payable; or
- consent to any amendment, modification or termination of the Indenture or such Notes, where such consent by the holders of the Notes shall be required.

If a consent under the Indenture would require the consent of each holder of Notes affected thereby, no such consent may be given by the Property Trustee without the prior consent of each holder of Capital APEX and prior to the Stock Purchase Date or if earlier, the Remarketing Settlement Date, each holder of the Normal APEX.

The Property Trustee will notify each holder of the Capital APEX and prior to the Stock Purchase Date or if earlier, the Remarketing Settlement Date, each holder of the Normal APEX of any notice of default with respect to the Notes. In addition to obtaining the foregoing approvals of the holders of the APEX, before taking any of the foregoing actions, the administrative trustees of the Trust will obtain an opinion of counsel experienced in such matters to the effect that such action would not cause the Trust to be classified as other than one or more grantor trusts or agency arrangements or as an association or a publicly traded partnership taxable as a corporation for U.S. federal income tax purposes. The Property Trustee may not revoke any action previously authorized or approved by a vote of the holders of the APEX except by subsequent vote of the holders of the same series of APEX.

Stock Purchase Contract Agreement and Collateral Agreement. We may modify the Stock Purchase Contract Agreement or the Collateral Agreement with the consent of the trustees of the Trust. The trustees may consent to any amendment or modification of these agreements without the prior consent of the holders of any series of APEX for any of the following purposes:

- to evidence the succession of another person to the obligations of the Trust or the Property Trustee;
- to add to the covenants for the benefit of the Trust or the Property Trustee or to surrender any of our rights or powers under those agreements;
- to evidence and provide for the acceptance of appointment of a successor Collateral Agent, Custodial Agent or securities intermediary under the Collateral Agreement;
- to cure any ambiguity, or to correct or supplement any provisions that may be inconsistent;
- to conform the terms of the Stock Purchase Contract Agreement or the Collateral Agreement to their respective descriptions in this prospectus supplement;
- to provide that at any time that we could convert the Preferred (if the Preferred were issued and outstanding) into a new series of preferred stock, as described below under “Description of the Series E Preferred Stock — Regulatory Changes Relating to Capital Adequacy,” then

the Contracts shall, at our election, be a contract to acquire such new series of preferred stock; or

- to make any other provisions with respect to such matters or questions, *provided* that such action shall not adversely affect the interest of the holders of any series of APEX in any material respect.

The trustees of the Trust may agree, with the consent of not less than a majority of the Normal APEX and Stripped APEX at the time outstanding, considered together as a single class, to amend or modify the Stock Purchase Contract Agreement or the Collateral Agreement. However, no such amendment or modification may, without the consent of the holder of each outstanding Normal APEX and Stripped APEX:

- change any payment date;
- change the amount or type of Pledged Securities required to be pledged, impair the right of the Trust to receive distributions on the Pledged Securities or otherwise adversely affect the Trust's rights in or to the Pledged Securities;
- change the place or currency of payment or reduce any Contract Payments;
- impair the Property Trustee's, or the holders' in the case of a direct action, right to institute suit for the enforcement of the Contract or payment of any Contract Payments; or
- reduce the number of shares of Preferred purchasable under the Contracts, increase the price to purchase Preferred upon settlement of the Contracts, change the Stock Purchase Date or otherwise adversely affect the Trust's rights under the Contracts.

If any amendment or proposal referred to above would adversely affect only the Normal APEX or the Stripped APEX, then only the affected series of holders will be entitled to consent to such modification, and the Property Trustee's consent to such modification will not be effective except with the consent of the holders of not less than a majority of the affected series or of all of the holders of the affected series, as applicable.

Preferred Stock. So long as the Preferred is held by the Property Trustee on behalf of the Trust, the trustees of the Trust will not waive any rights in respect of the Preferred without obtaining the prior approval of the holders of at least a majority in liquidation amount of the Normal APEX and the Stripped APEX then outstanding, considered together as a single class. The trustees of the Trust shall also not consent to any amendment to the Trust's or our governing documents that would change the dates on which dividends are payable or the amount of such dividends, without the prior written consent of each holder of Normal APEX and Stripped APEX. In addition to obtaining the foregoing approvals from holders, the administrative trustees shall obtain, at our expense, an opinion of counsel to the effect that such action shall not cause the Issuer Trust to be taxable as a corporation or classified as a partnership for U.S. federal income tax purposes.

General. Any required approval of holders of any series of APEX may be given at a meeting of holders of such series of APEX convened for such purpose or pursuant to written consent. The Property Trustee will cause a notice of any meeting at which holders of any series of APEX are entitled to vote, or of any matter upon which action by written consent of such holders is to be taken, to be given to each record holder of such APEX in the manner set forth in the Trust Agreement.

No vote or consent of the holders of APEX will be required for the Trust to redeem and cancel the APEX in accordance with the Trust Agreement.

Notwithstanding that holders of the APEX are entitled to vote or consent under any of the circumstances described above, any of the APEX that are owned by us or our affiliates or the trustees

or any of their affiliates, shall, for purposes of such vote or consent, be treated as if they were not outstanding.

Payment and Paying Agent

Payments on the APEX shall be made to DTC, which shall credit the relevant accounts on the applicable Distribution Dates. If any APEX are not held by DTC, such payments shall be made by check mailed to the address of the holder as such address shall appear on the register.

The paying agent shall initially be U.S. Bank National Association and any co-paying agent chosen by the Property Trustee and acceptable to us and to the administrative trustees. The paying agent shall be permitted to resign as paying agent upon 30 days' written notice to the administrative trustees and to the Property Trustee. In the event that U.S. Bank National Association shall no longer be the paying agent, the Property Trustee will appoint a successor to act as paying agent, which will be a bank or trust company acceptable to the administrative trustees and to us.

Registrar and Transfer Agent

U.S. Bank National Association will act as registrar and transfer agent, or "*Transfer Agent*," for the APEX.

Registration of transfers of APEX will be effected without charge by or on behalf of the Trust, but upon payment of any tax or other governmental charges that may be imposed in connection with any transfer or exchange. Neither the Trust nor the Transfer Agent shall be required to register the transfer of or exchange any Trust security during a period beginning at the opening of business 15 days before the day of selection for redemption of Trust securities and ending at the close of business on the day of mailing of notice of redemption or to transfer or exchange any Trust security so selected for redemption in whole or in part, except, in the case of any Trust security to be redeemed in part, any portion thereof not to be redeemed.

Any APEX can be exchanged for other APEX of the same series so long as such other APEX are denominated in authorized denominations and have the same aggregate liquidation amount and same terms as the APEX that were surrendered for exchange. The APEX may be presented for registration of transfer, duly endorsed or accompanied by a satisfactory written instrument of transfer, at the office or agency maintained by us for that purpose in a place of payment. There will be no service charge for any registration of transfer or exchange of the APEX, but we may require holders to pay any tax or other governmental charge payable in connection with a transfer or exchange of the APEX. We may at any time rescind the designation or approve a change in the location of any office or agency, in addition to the security registrar, designated by us where holders can surrender the APEX for registration of transfer or exchange. However, the Trust will be required to maintain an office or agency in each place of payment for the APEX.

Information Concerning the Property Trustee

Other than during the occurrence and continuance of a Trust Event of Default, the Property Trustee undertakes to perform only the duties that are specifically set forth in the Trust Agreement. After a Trust Event of Default, the Property Trustee must exercise the same degree of care and skill as a prudent individual would exercise or use in the conduct of his or her own affairs. Subject to this provision, the Property Trustee is under no obligation to exercise any of the powers vested in it by the Trust Agreement at the request of any holder of APEX unless it is offered indemnity satisfactory to it by such holder against the costs, expenses and liabilities that might be incurred. If no Trust Event of Default has occurred and is continuing and the Property Trustee is required to decide between alternative courses of action, construe ambiguous provisions in the Trust Agreement or is unsure of the application of any provision of the Trust Agreement, and the matter is not one upon which holders of APEX are entitled under the Trust Agreement to vote, then the Property Trustee will take any action that we direct. If we do not provide direction, the Property Trustee may take any action that it deems

advisable and in the interests of the holders of the Trust securities and will have no liability except for its own bad faith, negligence or willful misconduct.

We and our affiliates may maintain certain accounts and other banking relationships with the Property Trustee and its affiliates in the ordinary course of business.

Trust Expenses

Pursuant to the Trust Agreement, we, as sponsor, agree to pay:

- all debts and other obligations of the Trust (other than with respect to the APEX);
- all costs and expenses of the Trust, including costs and expenses relating to the organization of the Trust, the fees, expenses and indemnities of the trustees and the cost and expenses relating to the operation of the Trust; and
- any and all taxes and costs and expenses with respect thereto, other than U.S. withholding taxes, to which the Trust might become subject.

Governing Law

The Trust Agreement will be governed by and construed in accordance with the laws of Delaware.

Miscellaneous

The administrative trustees are authorized and directed to conduct the affairs of and to operate the Trust in such a way that it will not be required to register as an "investment company" under the Investment Company Act or characterized as other than one or more grantor trusts or agency arrangements for U.S. federal income tax purposes. The administrative trustees are authorized and directed to conduct their affairs so that the Notes will be treated as indebtedness of GS Group for U.S. federal income tax purposes.

In this regard, we and the administrative trustees are authorized to take any action, not inconsistent with applicable law, the certificate of trust of the Trust or the Trust Agreement, that we and the administrative trustees determine to be necessary or desirable to achieve such end, as long as such action does not materially and adversely affect the interests of the holders of the APEX.

Holders of the APEX have no preemptive or similar rights. The APEX are not convertible into or exchangeable for our common stock or preferred stock.

Subject to the Replacement Capital Covenant and to the CSE Rules applicable to consolidated supervised entities, we or our affiliates may from time to time purchase any of the APEX that are then outstanding by tender, in the open market or by private agreement.

The Trust may not borrow money or issue debt or mortgage or pledge any of its assets except for pledges of Notes, the U.S. treasury securities purchased with the proceeds from the Remarketing and Qualifying Treasury Securities to secure its obligations under the Contracts.

DESCRIPTION OF THE STOCK PURCHASE CONTRACTS

The following is a brief description of the terms of the Stock Purchase Contract Agreement, the Contracts and the Collateral Agreement and supplements and to the extent inconsistent with supersedes and replaces the description of stock purchase contracts in the accompanying prospectus, including, under "Description of the Purchase Contracts We May Offer" below and "Description of Capital Securities and Related Instruments" below. The description does not purport to be complete in all respects and is subject to and qualified in its entirety by reference to the Stock Purchase Contract Agreement and the Collateral Agreement, copies of which are available upon request from us as described under "Available Information" in the accompanying prospectus.

Purchase of Preferred Stock

Each Contract will obligate the Trust to purchase, and us to sell, a newly-issued share of the Preferred on the Stock Purchase Date for $100,000 in cash. The Stock Purchase Date is expected to be June 1, 2012, but could (i) occur on an earlier date if an Early Settlement Event (as described below) occurs or (ii) be deferred for quarterly periods until as late as June 1, 2013 (or if such day is not a business day, the next business day) if the first four Remarketing attempts are not successful. The Stock Purchase Date will be the March 1, June 1, September 1 or December 1 (or if any such day is not a business day, the next business day) immediately following the Remarketing Settlement Date, or if no successful Remarketing has occurred by the March 1, June 1, September 1 or December 1 (or if any such day is not a business day, by the next business day) immediately following the fifth Remarketing attempt, then the March 1, June 1, September 1 or December 1 (or if any such day is not a business day, the next business day) after such fifth unsuccessful Remarketing. For example, if no Early Settlement Event has occurred and each successive Remarketing for a proposed Remarketing Settlement Date in May 2012, August 2012, November 2012, February 2013 and May 2013 is not successful, the Stock Purchase Date would then be on June 1, 2013 (or if any such day is not a business day, on the next business day).

On the Stock Purchase Date, the Trust will satisfy its obligation to purchase the Preferred for $100,000 per Contract. Unless an event described below under "— Termination" has occurred, then the settlement of the Contracts will occur as follows:

- the proceeds at maturity of the U.S. treasury securities purchased from the Remarketing proceeds and of the Qualifying Treasury Securities pledged to secure the Trust's obligations under the Contracts and maturing on or prior to the Stock Purchase Date will be applied to satisfy in full the Trust's obligation to purchase the Preferred under the Contracts; and
- if there has not been a successful Remarketing, we will exercise our rights as a secured party in accordance with applicable law, including without limitation disposition of the Notes pledged to secure the Trust's obligations under the Contracts or their proceeds or applying these Notes or their proceeds against the Trust's obligation to purchase the Preferred under the Contracts.

In any event, a share of the Preferred will then be issued and delivered to the Trust in respect of each Contract.

Contract Payments

We will make periodic contract payments, or "*Contract Payments*," to the Trust on the Contracts at a rate equal to 0.200% *per annum* of the stated amount of $100,000 per Contract. Contract Payments will be calculated on the basis of a 360-day year consisting of twelve 30-day months. Contract Payments will accrue from May 15, 2007 and, subject to our right to defer Contract Payments described below, will be payable on each Regular Distribution Date through the Stock Purchase Date. If any Regular Distribution Date is not a business day, then payment of the Contract Payments

payable on that date will be made on the next succeeding business day. However, no interest or payment will be paid in respect of the delay.

Our obligations with respect to Contract Payments will be subordinate and junior in right of payment to our obligations under any of our senior and subordinated debt to the same extent as the Notes. The Contracts do not limit the incurrence by us of other indebtedness, including senior and subordinated debt. No Contract Payments may be made if there shall have occurred and be continuing a default in any payment with respect to senior and subordinated debt or an event of default with respect to any senior and subordinated debt resulting in the acceleration of the maturity thereof, or if any judicial proceedings are pending with respect to any such default.

Option to Defer Contract Payments

We may at our option, and will at the direction of the SEC, defer Contract Payments on the corresponding Contracts at any time or from time to time. If we defer Contract Payments we will provide prior written notice to the Property Trustee, who will notify holders of Normal APEX and Stripped APEX and the administrative trustees. We may elect to defer Contract Payments on more than one occasion. Deferred Contract Payments will accrue interest until paid, compounded on each Regular Distribution Date at a rate equal to 5.593% *per annum*. If we elect or are directed by the SEC to defer the payment of Contract Payments and such deferral is continuing on the Stock Purchase Date, then we will pay the Trust the deferred Contract Payments in Additional Notes. The Trust will hold these notes as assets corresponding to the Normal APEX and Stripped APEX and make distributions to the holders thereof corresponding to payments of principal of, and interest on, these notes. If the Contracts are terminated upon the occurrence of certain events of bankruptcy, insolvency or reorganization with respect to us, the Trust's right to receive Contract Payments and deferred Contract Payments also will terminate.

If we elect or are directed by the SEC to defer Contract Payments, then until the deferred Contract Payments have been paid in cash or any notes we issue in respect of deferred Contract Payments have been repaid in full, we will not take any of the actions that we would be prohibited from taking during a deferral of interest payments on the Notes as described under "Description of the Junior Subordinated Notes — Restrictions on Certain Payments, Including on Deferral of Interest" below.

Direct Action by Holders of Normal APEX or Stripped APEX

Up to and including the Stock Purchase Date, or the earlier termination of the Contracts, any holder of Normal APEX or Stripped APEX may institute a direct action if we fail to make Contract Payments on the Contracts when due, taking into account any deferral period. A direct action may be brought without first:

- directing the Property Trustee to enforce the terms of the Contracts; or
- suing us to enforce the Property Trustee's rights under the Contracts.

This right of direct action cannot be amended in a manner that would impair the rights of the holders of the Normal APEX or Stripped APEX thereunder without the consent of all such holders.

Termination

Our rights and obligations and the rights and obligations of the Trust under the Contracts, including the right and obligation to purchase the Preferred and the right to receive deferred Contract Payments, will immediately and automatically terminate, without any further action, upon the termination of the Contracts as a result of our bankruptcy, insolvency or reorganization. In the event of a termination of the Contracts as a result of our bankruptcy, insolvency or reorganization, the Trust will not have a claim in bankruptcy under the Contracts with respect to our issuance of the Preferred or the right to receive Contract Payments.

Upon any termination, the Collateral Agent will release the aggregate principal amount of the Notes corresponding to the aggregate liquidation amount of the Normal APEX and the aggregate principal amount of Qualifying Treasury Securities corresponding to the aggregate liquidation amount of the Stripped APEX, as the case may be, held by it to the Property Trustee for distribution to the holders of the Normal APEX and the Stripped APEX. Upon any termination, however, the release and distribution may be subject to the automatic stay under Section 362 of the U.S. Bankruptcy Code, and claims arising out of the Notes, like all other claims in bankruptcy proceedings, will be subject to the equitable jurisdiction and powers of the bankruptcy court. In the event that we become the subject of a case under the U.S. Bankruptcy Code, a delay may occur as a result of the automatic stay under the U.S. Bankruptcy Code and continue until the automatic stay has been lifted. We expect any such delay to be limited. The automatic stay will not be lifted until such time as the bankruptcy court agrees to lift it and return your Pledged Securities to you.

If your Contracts are terminated as a result of our bankruptcy, insolvency or reorganization, the Trust will have no right to receive any accrued Contract Payments.

The Contracts will also terminate automatically upon the redemption of the Notes prior to the Stock Purchase Date. Upon any such termination, we will pay to the Trust for distribution to the holders of the Normal APEX and the Stripped APEX all accrued and unpaid contract payments *plus* the Stock Purchase Contract make-whole amount and the Collateral Agent will release the redemption price of the Notes corresponding to the aggregate liquidation amount of the Normal APEX and the aggregate principal amount of Qualifying Treasury Securities corresponding to the aggregate liquidation amount of the Stripped APEX, as the case may be, held by it to the Property Trustee for distribution to the holders of the Normal APEX and the Stripped APEX, respectively. The "*Stock Purchase Contract make-whole amount*" is equal to the *sum* of the present values of the Contract Payments that would have been payable to and including the relevant date (not including any portion of such payments of interest accrued as of the date of redemption), discounted from the relevant date or the applicable interest payment date to the redemption date on a semi-annual basis (assuming a 360-day year consisting of twelve 30-day months) at a discount rate equal to the treasury rate *plus* 0.50%. The "*relevant date*" means June 1, 2012 in the case of any redemption prior to such date, June 1, 2013 in the case of any redemption on or after June 1, 2012 and prior to June 1, 2013 if the stock purchase date shall not have occurred on or prior to June 1, 2012, and, otherwise, June 1, 2012.

Pledged Securities and the Collateral Agreement

The Trust will pledge Notes and Qualifying Treasury Securities and, after a successful Remarketing, certain U.S. treasury securities purchased from the Remarketing proceeds, also referred to as the "*Pledged Securities*," to us through the Collateral Agent, for our benefit, pursuant to the Collateral Agreement to secure the obligations of the Trust to purchase the Preferred under the Contracts. The rights of the Trust (acting through the Property Trustee) to the Pledged Securities will be subject to our security interest created by the Collateral Agreement. The aggregate principal amount of Notes, the U.S. treasury securities and Qualifying Treasury Securities constituting Pledged Securities, together with the amount of any proceeds of Qualifying Treasury Securities held by the Collateral Agent for reinvestment in additional Qualifying Treasury Securities and, after a successful Remarketing, the amount of the proceeds of the U.S. treasury securities purchased from the Remarketing proceeds must always equal the purchase price of the Preferred under the Contracts. Accordingly, Pledged Securities may not be withdrawn from the pledge arrangement except:

- to substitute Qualifying Treasury Securities for Notes in connection with an exchange of Normal APEX for Stripped APEX and Capital APEX, as provided for under "Description of the APEX — Exchanging Normal APEX and Qualifying Treasury Securities for Stripped APEX and Capital APEX";
- to substitute Notes for Qualifying Treasury Securities in connection with an exchange of Stripped APEX and Capital APEX for Normal APEX, as provided for under "Description of

the APEX — Exchanging Stripped APEX and Capital APEX for Normal APEX and Qualifying Treasury Securities";

- to substitute U.S. treasury securities purchased from the Remarketing proceeds for Notes upon completion of a successful Remarketing; or
- upon the termination of the Contracts.

Subject to the security interest and the terms of the Collateral Agreement, the Trust (acting through the Property Trustee) will own the Pledged Securities and, subject to the terms of the Trust Agreement, it will be entitled to exercise all rights pertaining to the Notes and the Preferred, including voting rights and, in the case of the Notes, redemption rights. We will have no interest other than our security interest in the Pledged Securities.

Except as described in "Certain Other Provisions of the Stock Purchase Contract Agreement and the Collateral Agreement," the Collateral Agent will, upon receipt, if any, of payments on the Pledged Securities (except to the extent it applies the proceeds at maturity of any Qualifying Treasury Securities to purchase replacement Qualifying Treasury Securities), distribute the payments to the Trust, which will in turn distribute those payments together with Contract Payments received from us, to the persons in whose names the Normal APEX and Stripped APEX are registered at the close of business on the record date immediately preceding the date of payment.

CERTAIN OTHER PROVISIONS OF THE STOCK PURCHASE CONTRACT AGREEMENT AND THE COLLATERAL AGREEMENT

The following is a brief description of certain other provisions of the Stock Purchase Contract Agreement and the Collateral Agreement and supplements and to the extent inconsistent with supersedes and replaces the description of stock purchase contracts in the accompanying prospectus, including, under "Description of the Purchase Contracts We May Offer" and "Description of Capital Securities and Related Instruments". It does not purport to be complete in all respects and is subject to and qualified in its entirety by reference to these agreements, copies of which are available upon request from us as described under "Available Information" in the accompanying prospectus.

No Consent to Assumption

The Trust (acting through the Property Trustee) will under the terms of the Stock Purchase Contract Agreement be deemed expressly to have withheld any consent to the assumption (*i.e.*, affirmance) of the Contracts by us or our trustee if we become the subject of a case under the U.S. Bankruptcy Code or other similar state or federal law provision for reorganization or liquidation.

Consolidation, Merger, Sale or Conveyance

We covenant in the Stock Purchase Contract Agreement that we will not merge with and into, consolidate with or convert into any other entity or sell, assign, transfer, lease or convey all or substantially all of our properties and assets to any person or entity, unless:

- the successor entity is a corporation organized and existing under the laws of a domestic jurisdiction and assumes our obligations under the Contracts, the Stock Purchase Contract Agreement, the Collateral Agreement, the Trust Agreement, the Indenture for the Notes, the Guarantee and the Remarketing Agreement;
- the successor entity is not, immediately after the merger, consolidation, conversion, sale, assignment, transfer, lease or conveyance, in default of its payment obligations under the Contracts, the Stock Purchase Contract Agreement, the Collateral Agreement, the Trust Agreement or the Remarketing Agreement or in material default in the performance of any other covenants under these agreements; and
- the successor entity reserves sufficient authorized and unissued shares of preferred stock having substantially the same terms and conditions as the Preferred, such that the Trust will receive, on the Stock Purchase Date, preferred stock having substantially the same rights as the Preferred that the Trust would have received had such merger, consolidation or other transaction not occurred.

Governing Law

The Stock Purchase Contract Agreement, the Contracts and the Collateral Agreement will be governed by, and construed in accordance with, the laws of the State of New York.

Information Concerning the Collateral Agent

U.S. Bank National Association initially will be the Collateral Agent, Custodial Agent and securities intermediary under the Collateral Agreement. U.S. Bank National Association, in its capacity as Collateral Agent, will act solely as our agent and will not assume any obligation or relationship of agency or trust for or with the Property Trustee or any of the holders of the APEX, except for the obligations owed by a pledgee of property to the owner of the property under the Collateral Agreement and applicable law. U.S. Bank National Association, in its capacity as Custodial Agent, will act solely as agent for the Trust and will not assume any obligation or relationship of agency or trust for or with any of the holders of the APEX.

The Collateral Agreement will contain provisions limiting the liability of the Collateral Agent and Custodial Agent and provisions under which they may resign or be replaced. This resignation or replacement would be effective upon the acceptance of appointment by a successor.

Miscellaneous

The Collateral Agreement will provide that we will pay all fees and expenses related to the retention of the Collateral Agent and Custodial Agent.

DESCRIPTION OF THE JUNIOR SUBORDINATED NOTES

The following is a description of the material terms of the Notes and the Indenture under which they are to be issued and supplements and to the extent inconsistent with, supersedes and replaces the description of debt securities contained in the accompanying prospectus, including under "Description of Debt Securities We May Offer" and "Description of Capital Securities and Related Instruments." This description does not purport to be complete in all respects and is subject to and qualified in its entirety by reference to the Notes and the Indenture referred to below, copies of which are available upon request from us as described under "Available Information" in the accompanying prospectus.

The Notes will be issued pursuant to our subordinated debt indenture, dated as of February 20, 2004, between us and The Bank of New York, as amended and supplemented by a supplemental indenture, to be dated as of May 15, 2007, between us and The Bank of New York. We refer to the subordinated debt indenture, as so amended and supplemented, as the "*Indenture*," and to The Bank of New York or its successor, as indenture trustee, as the "*Indenture Trustee*." You should read the Indenture for provisions that may be important to you.

When we use the term "*holder*" in this prospectus supplement with respect to a registered Note, we mean the person in whose name such Note is registered in the security register. It is expected that U.S. Bank National Association, in its capacity as either Collateral Agent or Custodial Agent, will be the registered holder of the Notes at all times prior to the Remarketing Settlement Date. After the Remarketing Settlement Date, we expect that the Notes will be held in book-entry form only, as described under "Book-Entry System" below, and will be held in the name of DTC or its nominee.

The Indenture does not limit the amount of debt that we or our subsidiaries may incur either under the Indenture or other indentures to which we are or become a party. The Notes are not convertible into or exchangeable for our common stock or authorized preferred stock.

The Indenture does not restrict GS Group's ability to participate in a merger or other business combination or any other transaction, except to the limited extent described under "— Mergers and Similar Transactions" below.

The Indenture does not include restrictions on liens that apply to our senior indebtedness.

General

The Notes will be unsecured, will be deeply subordinated, including to all of our existing and future senior and subordinated debt, as defined below under "— Subordination," and, in the case of our liquidation (whether in bankruptcy or otherwise), to all of our indebtedness for money borrowed, including junior subordinated debt securities underlying trust preferred securities that are currently outstanding and other subordinated debt that is not by its terms expressly made *pari passu* with or junior to the Notes, but *pari passu* with trade creditors and *Pari Passu* Securities, as defined below under "— Subordination"; *provided* that in connection with an Early Remarketing, other than the first attempt at Remarketing, we may elect that our obligations under the Notes shall be senior obligations instead of subordinated obligations, effective on or after the Remarketing Settlement Date.

The Notes are a separate series of our subordinated debt securities. The entire principal amount of the Notes will mature and become due and payable, together with any accrued and unpaid interest thereon, and additional interest (as defined below), if any, on June 1, 2043 (subject to change in connection with a Remarketing, as described below under "— Remarketing").

We will have the right at any time after the Stock Purchase Date or the earlier termination of the Contracts to dissolve the Trust and cause the Notes to be distributed to the holders of the Capital APEX and, if the Contracts have been terminated, the holders of the Normal APEX. If Notes are distributed to holders of the Normal APEX and Capital APEX in liquidation of the holders' interests in the Trust at any time that the Normal APEX and Capital APEX are represented by global securities, those Notes initially will be issued as a global security. Unless the Trust is dissolved and the Notes distributed to holders of the Normal APEX and Capital APEX, U.S. Bank National Association, in its

capacity as either Collateral Agent or Custodial Agent, will continue to hold legal title to the Notes, subject, in the case of Notes that are Pledged Securities, to the pledge under the Collateral Agreement, and until the Stock Purchase Date or if earlier, the Remarketing Settlement Date.

Interest Rate and Maturity

The interest payment provisions for the Notes correspond to the distribution provisions of the Normal APEX described under "Description of the APEX — Current Payments — Normal APEX" above. The record date for interest payments on the Notes is the fifteenth calendar day immediately preceding the applicable interest payment date. The Notes will mature on June 1, 2043 or on such earlier date on or after June 1, 2016 as we may elect in connection with the Remarketing (subject to change in connection with a Remarketing as described below under "— Remarketing") and will bear interest accruing from May 15, 2007, at a rate of 5.593% *per annum*, payable semi-annually in arrears on June 1 and December 1 of each year, commencing December 1, 2007 (or if any such day is not a business day, on the next business day), subject to the deferral provisions described under "— Option to Defer Interest Payments" below. If there is a Failed Remarketing, interest will also be payable on the Notes on the Stock Purchase Date if it is not otherwise an interest payment date.

The amount of interest payable for any period will be computed on the basis of a 360-day year consisting of twelve 30-day months. In the case that any date on which interest is payable on the Notes is not a business day, then payment of the interest payable on that date will be made on the next succeeding day that is a business day. However, no interest or other payment shall be paid in respect of the delay.

Option to Defer Interest Payments

We will have the right under the Indenture to defer, and will defer if directed to do so by the SEC, the payment of interest on the Notes at any time or from time to time. We may not defer interest payments for any period of time that exceeds 14 consecutive interest payment dates (or the equivalent if interest periods are not at the time semi-annual), *i.e.*, seven years (or if later, beyond June 1, 2014), with respect to any deferral period. If we elect to move up the maturity date of the Notes in connection with a Remarketing and, at the time of the Remarketing, are deferring interest, we may not elect a maturity date that is earlier than seven years after commencement of the deferral period. Any deferral period must end on an interest payment date. At the end of a deferral period, we must pay all interest then accrued and unpaid, together with any interest on the accrued and unpaid interest, to the extent permitted by applicable law. If we exercise our right to defer payments of stated interest on the Notes, we intend to treat the Notes as reissued, solely for U.S. federal income tax purposes, with original issue discount, and you would generally be required to accrue such original issue discount as ordinary income using a constant yield method prescribed by Treasury regulations. As a result, the income that you would be required to accrue would exceed the interest payments that you would actually receive.

If the Stock Purchase Date occurs during a deferral period and we have not successfully remarketed the Notes, on the Stock Purchase Date we will pay the Trust deferred interest on the Notes that are Pledged Securities in Additional Notes that have a principal amount equal to the aggregate amount of deferred interest as of the Stock Purchase Date, mature on the later of June 1, 2017 and five years after commencement of the related deferral period, bear interest at a rate equal to 5.593% *per annum*, are subordinate and rank junior in right of payment to all of our senior and subordinated debt on the same basis as the Notes and are redeemable by us at any time prior to their stated maturity.

Prior to the termination of any deferral period, we may extend such deferral period, *provided* that such extension does not:

- cause such extended deferral period to exceed the maximum deferral period;
- end on a date other than an interest payment date; or
- extend beyond the stated maturity of the Notes.

Upon the termination of any deferral period, or any extension of the related deferral period, and the payment of all amounts then due, we may begin a new deferral period, subject to the limitations described above. No interest shall be due and payable during a deferral period except at the end thereof. We must give the Indenture Trustee and the paying agent notice of our election to begin or extend a deferral period at least 10 business days prior to the date interest on the Notes would have been payable except for the election to begin or extend the deferral period.

The Indenture Trustee shall give notice of our election to begin or extend a deferral period to the holders of the Notes, to the administrative trustees and to the holders of the Capital APEX and, if such election is made prior to the Stock Purchase Date or, if earlier, the Remarketing Settlement Date, to the holders of the Normal APEX. Subject to the foregoing limitations, there is no limitation on the number of times that we may begin or extend a deferral period.

As described under "— Restrictions on Certain Payments, Including on Deferral of Interest" below, during any such deferral period we will be restricted, subject to certain exceptions, from making certain payments, including declaring or paying any dividends or making any distributions on, or redeeming, purchasing, acquiring or making a liquidation payment with respect to, shares of our capital stock.

We have agreed not to make any payment of principal of or interest on, repay or redeem any debt securities ranking *pari passu* or junior to the junior subordinated debt securities issued under our subordinated debt indenture if, at that time, there is a default under the subordinated debt indenture, we have given notice of our election to defer interest thereon, and we have not paid in full interest scheduled to have been paid on the most recent interest payment date or any amount of deferred interest that has not been cancelled remains unpaid. Although, currently, there is $2.75 billion aggregate principal amount of junior subordinated debt securities outstanding under the subordinated debt indenture, this indebtedness ranks senior to the Notes.

Subordination

Our obligations to pay interest and premium (if any) on, and principal of, the Notes are subordinate and junior in right of payment and upon liquidation to all our senior and subordinated indebtedness, including all of our indebtedness for money borrowed, including junior subordinated debt securities underlying our trust preferred securities currently outstanding, indebtedness evidenced by bonds, debentures, notes or similar instruments, whether existing now or in the future, and all amendments, renewals, extensions, modifications and refundings of any indebtedness or obligations of that kind, but not including trade accounts payable and accrued liabilities arising in the ordinary course of business, which will rank equally in right of payment and upon liquidation with the Notes, and other debt securities and guarantees that by their terms are not superior in right of payment to the Notes; *provided*, *however*, that the Notes and the guarantee will rank equally in right of payment with any *Pari Passu* Securities.

"*Pari Passu Securities*" means indebtedness that, among other things, by its terms ranks equally with our Notes in right of payment and upon liquidation and guarantees of such indebtedness. *Pari Passu* Securities does not include our junior subordinated debentures or guarantees issued in connection with our currently outstanding traditional trust preferred securities, each of which ranks or will rank senior to the capital securities being issued by the Trust, or any junior subordinated debentures or guarantees that may be issued in the future in connection with traditional trust preferred securities. We refer to our obligations to which the Notes are subordinated as our "*senior and subordinated debt*." All liabilities of our subsidiaries including trade accounts payable and accrued liabilities arising in the ordinary course of business are effectively senior to the Notes to the extent of the assets of such subsidiaries. As of February 23, 2007, we had outstanding, including accrued interest, approximately $215 billion of senior and subordinated indebtedness, including indebtedness of our subsidiaries, that ranks senior to the Notes.

As a result of the subordination provisions, no payment of principal (including redemption payments), premium, if any, or interest on the Notes may be made if:

- any principal, premium, interest or any other payment due on any of our senior and subordinated debt has not been paid when due and that default continues; or
- the maturity of any of our senior and subordinated debt has been accelerated because of a default.

In addition, we will not incur any additional indebtedness for borrowed money that ranks *pari passu* with or junior to the Notes except in compliance with applicable SEC regulations and guidelines.

In connection with an Early Remarketing, other than the first attempt at Remarketing, we may elect that our obligations under the Notes shall be senior obligations instead of subordinated obligations, effective on or after the Remarketing Settlement Date.

If certain events in bankruptcy, insolvency or reorganization occur, we will first pay all senior and subordinated debt, including any interest accrued after the events occur, in full before we make any payment or distribution, whether in cash, securities or other property, on account of the principal of or interest on the Notes. In such an event, we will pay or deliver directly to the holders of senior and subordinated debt and of other indebtedness described in the previous sentence, any payment or distribution otherwise payable or deliverable to holders of the Notes. We will make the payments to the holders of senior and subordinated debt according to priorities existing among those holders until we have paid all senior and subordinated debt, including accrued interest, in full. Notwithstanding the subordination provisions discussed in this paragraph, we may make payments or distributions on the Notes so long as:

- the payments or distributions consist of securities issued by us or another company in connection with a plan of reorganization or readjustment; and
- payment on those securities is subordinate to outstanding senior and subordinated debt and any securities issued with respect to senior and subordinated debt under such plan of reorganization or readjustment at least to the same extent provided in the subordination provisions of the Notes.

If such events in bankruptcy, insolvency or reorganization occur, after we have paid in full all amounts owed on senior and subordinated debt, the holders of Notes together with the holders of any of our other obligations ranking equal with the Notes will be entitled to receive from our remaining assets any principal, premium or interest due at that time on the Notes and such other obligations before we make any payment or other distribution on account of any of our capital stock or obligations ranking junior to the Notes.

If we violate the Indenture by making a payment or distribution to holders of the Notes before we have paid all the senior and subordinated debt in full, then such holders of the Notes will have to pay or transfer the payments or distributions to the trustee in bankruptcy, receiver, liquidating trustee or other person distributing our assets for payment of the senior and subordinated debt. Notwithstanding the subordination provisions discussed in this paragraph, holders of Notes will not be required to pay, or transfer payments or distributions to, holders of senior and subordinated debt so long as:

- the payments or distributions consist of securities issued by us or another company in connection with a plan of reorganization or readjustment; and
- payment on those securities is subordinate to outstanding senior and subordinated debt and any securities issued with respect to senior and subordinated debt under such plan of reorganization or readjustment at least to the same extent provided in the subordination provisions of the Notes.

Because of the subordination, if we become insolvent, holders of senior and subordinated debt may receive more, ratably, and holders of the Notes having a claim pursuant to those securities may receive less, ratably, than our other creditors. This type of subordination will not prevent an event of default from occurring under the Indenture in connection with the Notes.

We may modify or amend the Indenture as provided under "— Modification of the Indenture" below. However, the modification or amendment may not, without the consent of the holders of all senior and subordinated debt outstanding, modify any of the provisions of the Indenture relating to the subordination of the Notes in a manner that would adversely affect the holders of senior and subordinated debt.

The Indenture places no limitation on the amount of senior and subordinated debt that we may incur. We expect from time to time to incur additional indebtedness and other obligations constituting senior and subordinated debt.

Additional Interest

If the Notes are owned by the Trust and if the Trust is required to pay any taxes, duties, assessments or governmental charges of whatever nature, other than withholding taxes, imposed by the United States, or any other taxing authority, then we will be required to pay additional interest on the Notes. The amount of any additional interest will be an amount sufficient so that the net amounts received and retained by the Trust after paying any such taxes, duties, assessments or other governmental charges will be not less than the amounts that the Trust would have received had no such taxes, duties, assessments or other governmental charges been imposed. This means that the Trust will be in the same position it would have been in if it did not have to pay such taxes, duties, assessments or other charges.

Remarketing

Remarketings will occur, and if successful, will settle in the calendar month immediately preceding the Stock Purchase Date. More specifically, the periods during which a Remarketing will occur, or "*Remarketing Periods*," will each consist of five consecutive business days beginning on the seventh business day prior to May 1, 2012, August 1, 2012, November 1, 2012, February 8, 2013 and May 1, 2013 (or if any such day is not a business day, the next business day) (we refer to such day as the "*Remarketing Settlement Date* "), unless an Early Settlement Event has occurred, and continuing until the fifth such period or the earlier settlement of a successful Remarketing. Accordingly, a successful Remarketing will settle on a Remarketing Settlement Date that is the third business day after the last day of the relevant Remarketing Period.

Before the first Remarketing, we will appoint a nationally recognized investment bank, which may include Goldman, Sachs & Co. or any of its affiliates, as *"Remarketing Agent"* pursuant to a *"Remarketing Agreement"* with that firm. We covenant in the Indenture to use our commercially reasonable efforts to effect the Remarketing of the Notes as described elsewhere in this prospectus supplement. If in the judgment of our counsel or counsel to the Remarketing Agent a registration statement is required to effect the Remarketing of the Notes, we will use our commercially reasonable efforts to ensure that a registration statement covering the full principal amount of the Notes to be remarketed will be effective in a form that will enable the Remarketing Agent to rely on it in connection with the Remarketing process or we will effect such Remarketing pursuant to Rule 144A under the Securities Act, if available, or any other available exemption from applicable registration requirements under the Securities Act.

All of the outstanding Notes will be remarketed in the Remarketing other than Notes having an aggregate principal amount equal to (i) the liquidation amount of Normal APEX the holders of which have elected to exchange their Normal APEX for Stripped APEX and Capital APEX if the Remarketing is successful and (ii) the liquidation amount of Capital APEX the holders of which have not elected to dispose of their Capital APEX in the Remarketing if it is successful. We describe the procedures for

these elections under “Description of the APEX — Remarketing of the Junior Subordinated Notes” above.

The net proceeds of Notes sold in a successful Remarketing, to the extent not distributed to holders of Capital APEX who have elected to dispose of their Capital APEX in connection with the Remarketing, will be invested on the Remarketing Settlement Date in certain U.S. treasury securities having a principal amount equal to at least 100% of the Remarketing Value, and those U.S. treasury securities will be pledged under the Collateral Agreement to secure the Trust’s obligation to purchase the Preferred under the Contracts. The net proceeds of the aggregate principal amount of Notes sold in a successful Remarketing corresponding to the liquidation amount of Capital APEX, the holders of which elected to dispose of their Capital APEX in the Remarketing, will be distributed to such holders promptly after the Remarketing Settlement Date and their Capital APEX will be cancelled. Any remaining proceeds, net of any remarketing fee, will be remitted to holders of Normal APEX other than those who made an effective election to exchange their Normal APEX and Qualifying Treasury Securities for Stripped APEX and Capital APEX upon a successful Remarketing promptly after the Remarketing Settlement Date.

Pursuant to the Remarketing Agreement, the Remarketing Agent will use its commercially reasonable efforts to obtain a price for the Notes to be remarketed that results in proceeds, net of any remarketing fee, of at least 100% of their Remarketing Value. The “*Remarketing Value*” of each Note will be equal to the value on the Remarketing Settlement Date of an amount of U.S. treasury securities that will pay, on or prior to the Stock Purchase Date, an amount of cash equal to the principal amount of, *plus* the interest payable on, such Note on the next Regular Distribution Date, including any deferred interest, assuming for this purpose, even if not true, that the interest rate on the Notes remains at the rate in effect immediately prior to the Remarketing and all accrued and unpaid interest on the Notes is paid in cash on such date; *provided* that the Remarketing Value shall be calculated on the assumptions that (x) the U.S. treasury securities are highly liquid and mature on or within five business days prior to the Stock Purchase Date, as determined in good faith by the Remarketing Agent in a manner intended to minimize the cash value of the U.S. treasury securities, and (y) the U.S. treasury securities are valued based on the ask-side price of such U.S. treasury securities at a time between 9:00 a.m. and 11:00 a.m., New York City time, selected by the Remarketing Agent, on the date of Remarketing, as determined on a third-day settlement basis by a reasonable and customary means selected in good faith by the Remarketing Agent, *plus* accrued interest to that date.

To obtain that value, the Remarketing Agent may reset the interest rate on the Notes to a new fixed or floating rate that will apply to all outstanding Notes, whether or not included in the Remarketing, and will become effective on the Remarketing Settlement Date. If the interest rate is reset as a fixed rate, the Notes will bear interest at that rate, or “*Reset Rate*,” from and after the Remarketing Settlement Date, and if the interest rate is reset as a floating rate, the Notes will bear interest at the applicable index as in effect from time to time *plus* a spread, or “*Reset Spread*,” from and after the Remarketing Settlement Date. In addition, in connection with the Remarketing, the maturity of the Notes and the date after which the Notes are optionally redeemable may be moved up, and the redemption price may be changed. If we elect a floating rate, we also have the option to change the interest payment dates and manner of calculation of interest on the Notes to correspond with the market conventions applicable to notes bearing interest at rates based on the applicable index. In addition, if we have not completed the remarketing through the first four Remarketing Periods, then in connection with the fifth and last remarketing attempt, the Notes may, at our election, become senior or subordinated debt. Any such changes will be announced as described below prior to the Remarketing attempt.

Each Remarketing Period will last for five consecutive business days. Our covenant in the Indenture to use our commercially reasonable efforts to effect the Remarketing of the Notes is subject to the following limitations.

- On any day other than the last day of a Remarketing Period, we will have the right, in our absolute discretion and without prior notice to the holders of the APEX, to postpone the Remarketing until the following business day.

- If a Remarketing Disruption Event has occurred and is continuing as of the last day of a Remarketing Period for a proposed Remarketing Settlement Date in May 2012, August 2012, November 2012, or February 2013 and no Early Settlement Event has occurred, we may elect not to attempt a Remarketing on that day. The consequence of that election will be that the Remarketing for the related Remarketing Period will not be successful and under the Indenture we will be obligated to use our commercially reasonable efforts to effect the Remarketing Period in the next succeeding May, August, November or February, as applicable. *"Remarketing Disruption Event"* means there shall have occurred an event that, if not disclosed in the offering document for the Remarketing, could cause such offering document to contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading, and either

  - in our judgment, such event is not required by law to be disclosed at such time and its disclosure might have a material adverse effect on our business, or

  - the disclosure of such event relates to a previously undisclosed proposed or pending material business transaction, the disclosure of which would impede our ability to consummate such transaction.

If the Remarketing Agent cannot remarket the Notes during any Remarketing Period at a price that results in proceeds, net of any remarketing fee, equal to 100% of the Remarketing Value of the Notes to be remarketed, then:

- the Stock Purchase Date will be deferred until after the next Remarketing Settlement Date;

- the interest rate on the Notes will not be reset; and

- the Remarketing Agent will thereafter attempt to establish a new Reset Rate or Reset Spread meeting the requirements described above and remarket the Notes during subsequent Remarketing Periods, which will begin on the seventh business day immediately preceding August 1, 2012, November 1, 2012 and February 8, 2013 (or if any such day is not a business day, the next business day).

Any subsequent Remarketing will be subject to the conditions and procedures described above, and will settle (if successful) on the corresponding Remarketing Settlement Date; *provided* that if a successful Remarketing has not previously occurred and, as a result, the Remarketing Agent attempts a Remarketing for settlement on May 1, 2013, or if such day is not a business day, the next business day (or the fifth scheduled Remarketing Settlement Date in the case of an Early Remarketing), then the Reset Rate for that Remarketing will not be subject to the Fixed Rate Reset Cap or the Reset Spread for that Remarketing will not be subject to the Floating Rate Reset Cap, as applicable.

If the Remarketing Agent is unable to remarket the Notes for settlement on or before May 1, 2013 or if such day is not a business day, the next business day (or the fifth scheduled Remarketing Settlement Date in the case of an Early Remarketing), a "*Failed Remarketing*" will be deemed to have occurred. In that case:

- The interest rate on the Notes will not be reset, and the Normal APEX and Capital APEX will continue to bear cash distributions at the rate otherwise applicable, payable in arrears on each Regular Distribution Date. In the event of a Failed Remarketing, we may move up the stated maturity of the Notes and, accordingly, the Capital APEX Mandatory Redemption Date to any date that is on or after June 1, 2016; *provided* that if we are deferring interest on the Notes at the time of the Failed Remarketing, any new stated maturity date

and Capital APEX Mandatory Redemption Date may not be earlier than seven years after commencement of the deferral period.

- We will exercise our rights as a secured party with respect to the Pledged Securities under the Collateral Agreement and, subject to applicable law, retain the Pledged Securities or their proceeds and apply them against the Trust's obligation to us under the Contract or sell them in one or more private sales. In either case, the Trust's obligations under the Contracts would be satisfied in full. We will issue a note, payable on the later of June 1, 2016 and the date seven years after commencement of any related deferral period on the Notes and bearing interest at the same rate (or pursuant to the same interest rate formula) that applies to the Notes, in the amount of any accrued and unpaid distributions on the Normal APEX and the Stripped APEX as of the Stock Purchase Date, to the Property Trustee.

- If you hold Capital APEX and elected to dispose of them in the Remarketing, your Capital APEX will be returned to you.

We will cause notice of any unsuccessful Remarketings and of a Failed Remarketing to be made publicly available.

The Reset Rate or Reset Spread will be equal to the interest rate determined to result in proceeds from the Remarketing of the Notes, net of any remarketing fee, of at least 100% of the Remarketing Value; *provided* that the Reset Rate may not exceed the Fixed Rate Reset Cap or the Reset Spread may not exceed the Floating Rate Reset Cap, as the case may be, in connection with the first four Remarketing Periods. For this purpose, the "*Fixed Rate Reset Cap*" is the prevailing market yield, as determined by the Remarketing Agent, of the benchmark U.S. treasury security having a remaining maturity that most closely corresponds to the period from such date until the earliest date on which the Notes may be redeemed at our option in the event of a successful Remarketing, *plus* 350 basis points, or 3.500%, *per annum*, and the "*Floating Rate Reset Cap*," which the Reset Spread may not exceed, will be 300 basis points, or 3.000%, *per annum.* Since the new rate will become effective part way through an interest period, the first interest payment due on the Notes after the Remarketing Settlement Date will reflect the initial rate for the period from and including the immediately preceding payment date to but excluding the Remarketing Settlement Date and the new rate for the period from and including the Remarketing Settlement Date to but excluding the date of payment.

If a Remarketing is attempted for settlement on or after May 1, 2013 or after the fourth Remarketing attempt following the occurrence of an Early Settlement Event, the Reset Rate will not be subject to the Fixed Rate Reset Cap or the Reset Spread or will not be subject to the Floating Rate Reset Cap, as the case may be.

In connection with a Remarketing, we may elect, in our sole discretion, to move up the stated maturity of the Notes to any date on or after June 1, 2016, and we may change the date on and after which the Notes are redeemable at our option to a new date not earlier than June 1, 2016 and change the redemption price. In the event that we are deferring interest on the Notes at the time of the Remarketing, any new maturity or redemption date of the Notes may not be earlier than seven years after commencement of the deferral period, and any new redemption price may not be less than the principal *plus* accrued and unpaid interest (including additional interest) on the Notes. In addition, we may also elect, in the case of a Remarketing following an Early Settlement Event, other than the first attempt at a Remarketing, that the Notes underlying the APEX, and our Guarantee of the APEX, will no longer be subordinated. Any such election would take effect, upon a successful Remarketing, on the Remarketing Settlement Date.

The Property Trustee will give holders of Normal APEX and Capital APEX notice of a Remarketing at least 21 calendar days prior to the first day of any Remarketing Period. Such notice will set forth:

- the beginning and ending dates of the Remarketing Period and the applicable Remarketing Settlement Date and Stock Purchase Date in the event the Remarketing is successful;
- the applicable Distribution Dates and record dates for cash distributions on the Normal APEX and Capital APEX;
- any change to the maturity date of the Notes if the Remarketing is successful;
- in the case of a Remarketing following an Early Settlement Event after an unsuccessful Remarketing during the first scheduled Remarketing Period, whether the Notes will no longer be subordinated to our senior indebtedness;
- in the case of a Remarketing that does not follow an Early Settlement Event after four unsuccessful Remarketings, whether the Notes will no longer be subordinated to our senior indebtedness;
- the procedures you must follow if you hold Normal APEX to elect to exchange your Normal APEX for Stripped APEX and Capital APEX if the Remarketing is successful and the date by which such election must be made; and
- the procedures you must follow if you hold Capital APEX to elect to dispose of them in connection with the Remarketing and the date by which such election must be made.

Early Remarketing

If an Early Settlement Event occurs, the Remarketing process described above will begin earlier. The first attempted Remarketing will take place during the first following Remarketing Period that begins at least 30 days after the occurrence of such Early Settlement Event. "*Remarketing Period*" means, for this purpose, each period consisting of five consecutive business days beginning on the seventh business day prior to a February 8, May 1, August 1 or November 1 (or if any such day is not a business day, the next business day) (which will also be a "*Remarketing Settlement Date*" for this purpose), and continuing until the fifth such period or the earlier settlement of a successful Remarketing. In the event of such an "*Early Remarketing*":

- the first Remarketing attempt will be on the basis that the APEX will be remarketed with the underlying Notes remaining subordinated to the same extent as when they are originally issued (*i.e.*, we will not have the option to elect to remarket them as senior notes) subject to the Fixed Rate Reset Cap or Floating Rate Reset Cap, as applicable;
- the second, third and fourth Remarketing attempts will be subject to the Fixed Rate Reset Cap or Floating Rate Reset Cap, as applicable, but the underlying Notes may, at our election, become senior and subordinated debt; and
- the fifth and last Remarketing attempt will not be subject to the Fixed Rate Reset Cap or Floating Rate Reset Cap, as applicable, and the underlying Notes may, at our election, become senior and subordinated debt.

If the first Remarketing attempt in an Early Remarketing is not successful, up to four additional attempts will be made beginning on the first day of the next four succeeding Remarketing Periods, as applicable, in each case for settlement if successful on the related Remarketing Settlement Date. For example, if an Early Settlement Event (other than as a result of the entry of an order for dissolution of the Trust by a court of competent jurisdiction) occurs on April 1, 2008, then the first Remarketing attempt would begin on the seventh business day prior to August 1, 2008 (or if such day is not a business day, the next business day) for settlement on that date as the Remarketing Settlement Date; if that Remarketing fails, successive Remarketing attempts would be made for settlement on the

November 1, 2008, February 8, 2009 and May 1, 2009 Remarketing Settlement Dates (with the Stock Purchase Date being the December 1, March 1 or June 1, as applicable, that is immediately thereafter, or if any such day is not a business day, the next business day); and if none of those Remarketing attempts succeeds, then the fifth and final Remarketing attempt will be made for settlement on the Remarketing Settlement Date on August 1, 2009 (or if such day is not a business day, the next business day), in which case the Stock Purchase Date would be September 1, 2009, or if such day is not a business day, the next business day.

In the case of an Early Settlement Event resulting from the entry of an order for dissolution of the Trust by a court of competent jurisdiction, as described under "Description of the APEX — Liquidation Distribution upon Dissolution" above, however, there shall be only one Remarketing Period and the Reset Rate shall not be subject to the Fixed Rate Reset Cap or the Reset Spread shall not be subject to the Floating Rate Reset Cap, as applicable. If the Remarketing conducted on such date is not successful, it shall be deemed a Failed Remarketing and the Stock Purchase Date shall be the next succeeding March 1, June 1, September 1 or December 1, or if such day in not a business day, the next business day.

Except as described above, an Early Remarketing after the occurrence of an Early Settlement Event will be conducted as described above under "— Remarketing."

Early Settlement Events

An "*Early Settlement Event*" shall be deemed to occur if:

- the SEC, in its capacity as consolidated supervisor, delivers to us a notice stating that it anticipates that the Firm's Allowable Capital, calculated in accordance with the CSE Rules, may not be sufficient to support the Firm's businesses in the near term and directing the Firm to treat such notice as an Early Settlement Event; or
- the Trust is dissolved pursuant to the entry of an order for dissolution by a court of competent jurisdiction.

Since we became a CSE in April 2005, we have maintained Allowable Capital in excess of the levels required under the CSE Rules and we expect this to continue.

Payment; Exchange; Transfer

We will appoint a paying agent on or before the Remarketing Settlement Date from whom holders of Notes can receive payment of the principal of and any premium and interest on the Notes on and after such date. We may elect to pay any interest on the Notes by mailing a check to the person listed as the owner of the Notes in the security register or by wire transfer to an account designated by that person in writing not less than ten days before the date of the interest payment. We will pay interest on the Notes:

- on an interest payment date to the person in whose name that Note is registered at the close of business on the record date relating to that interest payment date; and
- on the date of maturity or earlier redemption or repayment to the person who surrenders such Note at the office of our appointed paying agent.

Any money that we pay to a paying agent for the purpose of making payments on the Notes and that remains unclaimed two years after the payments were due will, at our request, be returned to us and after that time any holder of such Notes can only look to us for the payments on such Notes.

Any Notes can be exchanged for other Notes so long as such other Notes are denominated in authorized denominations and have the same aggregate principal amount and same terms as the Notes that were surrendered for exchange. The Notes may be presented for registration of transfer, duly endorsed or accompanied by a satisfactory written instrument of transfer, at the office or agency maintained by us for that purpose in a place of payment. There will be no service charge for any

registration of transfer or exchange of the Notes, but we may require holders to pay any tax or other governmental charge payable in connection with a transfer or exchange of the Notes. We may at any time rescind the designation or approve a change in the location of any office or agency, in addition to the security registrar, designated by us where holders can surrender the Notes for registration of transfer or exchange. However, we will be required to maintain an office or agency in each place of payment for the Notes.

Denominations

The Notes will be issued only in registered form, without coupons, in denominations of $1,000 each or multiples of $1,000. After the Remarketing Settlement Date, we expect that the Notes will be held in book-entry form only, as described below under "Book-Entry System" and will be held in the name of DTC or its nominee.

Restrictions on Certain Payments, including on Deferral of Interest

If:

- there shall have occurred and be continuing any event of default with respect to the Notes;
- the Notes are beneficially owned by the Trust and we shall be in default relating to our payment of any obligations under the Guarantee;
- we shall have given notice of our election to defer payments of interest on the Notes but the related deferral period has not yet commenced;
- we have not paid in full interest scheduled to have been paid on the most recent interest payment date;
- any amount of deferred interest on the Notes remains unpaid; or
- we have paid deferred interest to the Trust in the form of Additional Notes and not yet repaid all amounts outstanding on such notes;

then:

- we shall not declare or pay any dividends or distributions on, or redeem, purchase, acquire or make a liquidation payment with respect to any shares of our capital stock, and we shall not permit any of our subsidiaries over which we have voting control to purchase or acquire or make any other payment or distribution on or with respect to any shares of our capital stock;
- we shall not make any payment of principal of or interest or premium, if any, on or repay, repurchase or redeem any debt securities issued by us that rank or make any payments under any guarantee that ranks, upon our liquidation, *pari passu* with the Notes (including the Notes, "*parity securities*") or junior to the Notes, and we shall not permit any of our subsidiaries over which we have voting control to purchase or acquire or make any other payment on or with respect to any of our debt securities or any guarantee that ranks, upon our liquidation, *pari passu* with or junior to the Notes; and
- we shall not make any payment under any guarantee that ranks junior to our Guarantee related to the APEX.

The restrictions listed above do not apply to:

- any repurchase, redemption or other acquisition of shares of our capital stock in connection with:
    - any employment contract, benefit plan or other similar arrangement with or for the benefit of any one or more employees, officers, directors, consultants or independent contractors;

- the satisfaction of our obligations pursuant to any contract entered into in the ordinary course prior to the beginning of the deferral period;
- a dividend reinvestment or shareholder purchase plan; or
- the issuance of our capital stock, or securities convertible into or exercisable for such capital stock, as consideration in an acquisition transaction entered into prior to the applicable event of default, default or deferral period, as the case may be;

- any exchange, redemption or conversion of any class or series of our capital stock, or the capital stock of one of our subsidiaries, for any other class or series of our capital stock, or of any class or series of our indebtedness for any class or series of our capital stock;
- any purchase of fractional interests in shares of our capital stock pursuant to the conversion or exchange provisions of such capital stock or the securities being converted or exchanged;
- any declaration of a dividend in connection with any rights plan, or the issuance of rights, stock or other property under any rights plan, or the redemption or repurchase of rights pursuant thereto;
- payments by us under any guarantee agreement executed for the benefit of the holders of the APEX;
- payments of interest on Notes in Additional Notes and any repurchase of Notes in exchange for the Preferred, in each case in connection with a Failed Remarketing;
- any payment of current or deferred interest on parity securities that is made *pro rata* to the amounts due on such parity securities (including the Notes), and any payments of principal of or deferred interest on parity securities that, if not made, would cause us to breach the terms of the instrument governing such parity securities;
- any dividend in the form of stock, warrants, options or other rights where the dividend stock or stock issuable upon exercise of such warrants, options or other rights is the same stock as that on which the dividend is being paid or ranks equally with or junior to such stock; or
- any purchase or other acquisition of shares of our capital stock or our debt securities (and any related guarantees) or payment with respect to shares of our capital stock or our debt securities (and any related guarantees) if made in connection with (i) the initial distribution of shares of our capital stock or our debt securities (and any related guarantees) or (ii) market-making or other secondary market activities.

Redemption

We may from time to time redeem Notes, in whole or in part, at any date on or after June 1, 2016, at a redemption price equal to 100% of the principal amount thereof *plus* accrued and unpaid interest, including deferred interest (if any), to the date of redemption. In connection with a Remarketing, we may change the date after which we may redeem Notes to a later date or change the redemption price as described below under "— Remarketing." The Notes will not be subject to any sinking fund and will not be redeemable at the option of the holder.

Prior to June 1, 2016, we may also redeem all, but not less than all, of the Notes upon the occurrence of a capital treatment event, investment company event, rating agency event or tax event, as described below. The redemption price will be 100% of the principal amount of Notes to be redeemed, *plus* accrued and unpaid interest through the date of redemption, in the case of any redemption in connection with a capital treatment event or investment company event, and the greater of 100% of the principal amount of Notes to be redeemed and the applicable make-whole amount, *plus* accrued and unpaid interest through the date of redemption, in the case of any redemption in connection with a rating agency event or tax event.

The "*make-whole amount*" will be equal to the *sum* of the present values of the principal amount of the Notes and each interest payment thereon that would have been payable to and including the relevant date (not including any portion of such payments of interest accrued as of the date of redemption), discounted from the relevant date or the applicable interest payment date to the redemption date on a semi-annual basis (assuming a 360-day year consisting of twelve 30-day months) at a discount rate equal to the treasury rate *plus* 0.50%. The "*relevant date*" means June 1, 2012 in the case of any redemption prior to such date, June 1, 2013 in the case of any redemption on or after June 1, 2012 and prior to June 1, 2013 if the stock purchase date shall not have occurred on or prior to June 1, 2012, and, otherwise, June 1, 2012.

A "*capital treatment event*" means the reasonable determination by us that, as a result of:

- the occurrence of any amendment to, or change, including any announced prospective change, in the laws or regulations of the United States or any political subdivision thereof or therein or any rules, guidelines or policies of the SEC; or
- any official or administrative pronouncement or action or judicial decision interpreting or applying United States laws or regulations that is effective or is announced on or after the date of issuance of the APEX,

there is more than an insubstantial risk that prior to the Stock Purchase Date we will not be able to treat the liquidation amount of Normal APEX and Stripped APEX as Allowable Capital for GS Group, subject only to the limitation under the CSE Rules that this type of allowable capital, together with perpetual cumulative preferred stock, may not exceed 33% of common stockholders' equity, subject to the adjustments provided for in the CSE Rules.

An "*investment company event*" means our receipt of an opinion of counsel to the effect that, as a result of the occurrence of a change in law or regulation or a written change, including any announced prospective change, in interpretation or application of law or regulation by any legislative body, court, governmental agency or regulatory authority, there is more than an insubstantial risk that the Trust is or will be considered an investment company that is required to be registered under the Investment Company Act, and this change becomes effective or would become effective on or after the date of the issuance of the APEX.

A "*rating agency event*" means a change by any nationally recognized statistical rating organization within the meaning of Rule 15c3-1 under the Exchange Act that currently publishes a rating for us (a "*rating agency*") to its equity credit criteria for securities such as the Notes, as such criteria is in effect on the date of this prospectus supplement (the "*current criteria*"), which change results in (i) the length of time for which such current criteria is scheduled to be in effect is shortened with respect to the APEX or, after the Stock Purchase Date, the Notes, or (ii) a lower equity credit being given to the APEX or, after the Stock Purchase Date, the Notes as of the date of such change than the equity credit that would have been assigned to the APEX or the Notes as of the date of such change by such rating agency pursuant to its current criteria.

A "*tax event*" means our receipt of an opinion of counsel to the effect that, as a result of:

- an amendment to or change (including any announced prospective change) in the laws or regulations of the United States or any political subdivision or taxing authority of or in the United States that is enacted or becomes effective after the initial issuance of the APEX;
- a proposed change in those laws or regulations that is announced after the initial issuance of the APEX;
- an official administrative decision or judicial decision or administrative action or other official pronouncement interpreting or applying those laws or regulations that is announced after the initial issuance of the APEX; or

- a threatened challenge asserted in connection with an audit of the Trust, us or our subsidiaries, or a threatened challenge asserted in writing against any other taxpayer that has raised capital through the issuance of securities that are substantially similar to the Notes or the APEX;

there is more than an insubstantial increase in risk that:

- the Trust is, or will be, subject to United States federal income tax with respect to income received or accrued on the Notes;
- interest payable by us on the Notes is not, or will not be, deductible by us, in whole or in part, for United States federal income tax purposes; or
- the Trust is, or will be, subject to more than an insignificant amount of other taxes, duties or other governmental charges.

"*Treasury rate*" means the semi-annual equivalent yield to maturity of the "U.S. treasury security" that corresponds to the "treasury price" (calculated in accordance with standard market practice and computed as of the second trading day preceding the redemption date).

"*Treasury price*" means the bid-side price for the U.S. treasury security as of the third trading day preceding the redemption date, as set forth in the daily statistical release (or any successor release) published by the Federal Reserve Bank of New York on that trading day and designated "Composite 3:30 p.m. Quotations for U.S. Government Securities," except that: (i) if that release (or any successor release) is not published or does not contain that price information on that trading day; or (ii) if the treasury dealer determines that the price information is not reasonably reflective of the actual bid-side price of the U.S. treasury security prevailing at 3:30 P.M., New York City time, on that trading day, then treasury price will instead mean the bid-side price for the U.S. treasury security at or around 3:30 P.M., New York City time, on that trading day (expressed on a next trading day settlement basis) as determined by the treasury dealer through such alternative means as the treasury dealer considers to be appropriate under the circumstances.

"*Treasury dealer*" means Goldman, Sachs & Co. (or its successor) or, if Goldman, Sachs & Co. (or its successor) refuses to act as treasury dealer for this purpose or ceases to be a primary U.S. Government securities dealer, another nationally recognized investment banking firm that is a primary U.S. Government securities dealer specified by us for these purposes.

"*U.S. treasury security*" means the United States Treasury security that the "treasury dealer" determines would be appropriate to use, at the time of determination and in accordance with standard market practice, in pricing the Notes being redeemed in a tender offer based on a spread to United States Treasury yields.

We may not redeem the Notes in part if the principal amount has been accelerated and such acceleration has not been rescinded or unless all accrued and unpaid interest has been paid in full on all outstanding Notes for all interest periods terminating on or before the redemption date.

Any redemption will be subject to receipt of prior approval by the SEC, as required.

Notice of any redemption will be mailed at least 30 days but not more than 60 days before the redemption date to each holder of Notes to be redeemed at its registered address. Unless we default in payment of the redemption price, on and after the redemption date, interest will cease to accrue on the Notes or portions thereof called for redemption.

In the event of any redemption, neither we nor the Indenture Trustee will be required to:

- issue, register the transfer of, or exchange, Notes during a period beginning at the opening of business 15 days before the day of publication or mailing of the notice of redemption and ending at the close of business on the day of such publication or the mailing of such notice; or

- transfer or exchange any Notes so selected for redemption, except, in the case of any Notes being redeemed in part, any portion thereof not to be redeemed.

Mergers and Similar Transactions

We are generally permitted to merge or consolidate with another corporation or other entity. We are also permitted to sell our assets substantially as an entirety to another corporation or other entity. We may not take any of these actions unless all the following conditions are met:

- If the successor entity in the transaction is not GS Group, the successor entity must be organized as a corporation, partnership or trust and must expressly assume our obligations under the debt securities issued under the Indenture. The successor entity may be organized under the laws of any jurisdiction, whether in the United States or elsewhere.
- Immediately after the transaction, no default under the Notes has occurred and is continuing. For this purpose, "default under the Notes" means an event of default with respect to the Notes or any event that would be an event of default with respect to the series if the requirements for giving us default notice and for our default having to continue for a specific period of time were disregarded.

If the conditions described above are satisfied with respect to the Notes, we will not need to obtain the approval of the holders of Notes in order to merge or consolidate or to sell our assets. Also, these conditions will apply only if we wish to merge or consolidate with another entity or sell our assets substantially as an entirety to another entity. We will not need to satisfy these conditions if we enter into other types of transactions, including any transaction in which we acquire the stock or assets of another entity, any transaction that involves a change of control of GS Group but in which we do not merge or consolidate and any transaction in which we sell less than substantially all our assets.

Also, if we merge, consolidate or sell our assets substantially as an entirety and the successor is a non-U.S. entity, neither we nor any successor would have any obligation to compensate you for any resulting adverse tax consequences relating to Notes.

Events of Default, Waiver and Notice

An "*event of default*," when used in the Indenture, means any of the following:

- non-payment of interest for 30 days after deferral for 14 or more consecutive semi-annual interest periods or the equivalent thereof, in the event that interest periods are other than semi-annual (which deferral may extend beyond June 1, 2014);
- termination of the Trust without redemption of the APEX, distribution of the Notes to holders of the Capital APEX and, if such termination occurs prior to the Stock Purchase Date, or if earlier, the Remarketing Settlement Date, to the holders of the Normal APEX; or
- certain events of bankruptcy or insolvency of GS Group, whether voluntary or not.

If an event of default under the Indenture occurs and continues, the Indenture Trustee or the holders of at least 25% in aggregate principal amount of the outstanding Notes may declare the entire principal and all accrued but unpaid interest of all Notes to be due and payable immediately. If the Indenture Trustee or the holders of Notes do not make such declaration and the Notes are beneficially owned by the Trust or trustee of the Trust, the Property Trustee or the holders of at least 25% in aggregate liquidation amount of the Capital APEX and the Normal APEX (if such termination occurs prior to the Stock Purchase Date or if earlier, the Remarketing Settlement Date) shall have such right.

If such a declaration occurs, the holders of a majority of the aggregate principal amount of the outstanding Notes can, subject to certain conditions (including, if the Notes are held by a trust or the trustee of the Trust, the consent of the holders of at least a majority in aggregate liquidation amount of the Capital APEX and the Normal APEX (if such termination occurs prior to the Stock Purchase Date

or, if earlier, the Remarketing Settlement Date)), rescind the declaration. If the holders of the Notes do not rescind such declaration and the Notes are beneficially owned by the Trust or trustee of the Trust, the holders of at least a majority in aggregate liquidation amount of the APEX shall have such right.

The holders of a majority in aggregate principal amount of the outstanding Notes may waive any past default, except:

- a default in payment of principal or any premium or interest; or
- a default under any provision of the Indenture that itself cannot be modified or amended without the consent of the holder of each outstanding Note.

If the Notes are beneficially owned by the Trust or a trustee of the Trust, any such waiver shall require the consent of the holders of at least a majority in aggregate liquidation amount of the Capital APEX and the Normal APEX (if such termination occurs prior to the Stock Purchase Date or, if earlier, the Remarketing Settlement Date).

The holders of a majority in principal amount of the Notes shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Indenture Trustee.

We will furnish to the Indenture Trustee every year a written statement of two of our officers certifying that to their knowledge we are in compliance with the Indenture and the debt securities issued under it, or else specifying any default under the Indenture.

If the Notes are beneficially owned by the Trust or a trustee of the Trust, a holder of Capital APEX or Normal APEX (if such termination occurs prior to the Stock Purchase Date or if earlier, the Remarketing Settlement Date) may institute a direct action against us if we fail to make interest or other payments on the Notes when due, taking into account any deferral period. A direct action may be brought without first:

- directing the Property Trustee to enforce the terms of the Notes; or
- suing us to enforce the Property Trustee's rights under the Notes.

This right of direct action cannot be amended in a manner that would impair the rights of the holders of the Capital APEX and the Normal APEX (if such amendment occurs prior to the Stock Purchase Date or, if earlier, the Remarketing Settlement Date) thereunder without the consent of all such holders.

Actions Not Restricted by the Indenture

The Indenture does not contain restrictions on our ability to:

- incur, assume or become liable for any type of debt or other obligation;
- create liens on our property for any purpose; or
- pay dividends or make distributions on our capital stock or repurchase or redeem our capital stock, except as set forth under "— Restrictions on Certain Payments, including on Deferral of Interest" above.

The Indenture does not require the maintenance of any financial ratios or specified levels of net worth or liquidity. In addition, the Indenture does not contain any provisions that would require us to repurchase or redeem or modify the terms of any of the Notes upon a change of control or other event involving us that may adversely affect the creditworthiness of the Notes.

No Protection in the Event of a Highly Leveraged Transaction

The Indenture does not protect holders from a sudden and dramatic decline in credit quality resulting from takeovers, recapitalizations, or similar restructurings or other highly leveraged transactions.

Distribution of Corresponding Assets

If the Notes or Additional Notes are, or the Preferred is, owned by the Trust, under circumstances involving the dissolution of the Trust, the Notes, Additional Notes or Preferred may be distributed to the holders of the Trust securities in liquidation of the Trust, *provided* that any required regulatory approval is obtained. See "Description of the APEX — Liquidation Distribution upon Dissolution" above.

Modification of the Indenture

Under the Indenture, certain of our rights and obligations and certain of the rights of holders of the Notes may be modified or amended with the consent of the holders of at least a majority of the aggregate principal amount of the outstanding Notes. However, the following modifications and amendments will not be effective against any holder without its consent:

- a change in the stated maturity date of any payment of principal or interest, including any additional interest, except as expressly permitted in connection with a Remarketing;
- a reduction in or change in the manner of calculating payments due on the Notes, except as expressly permitted in connection with a Remarketing;
- a change in the place of payment or currency in which any payment on the Notes is payable;
- a limitation of a holder's right to sue us for the enforcement of payments due on the Notes;
- a reduction in the percentage of outstanding Notes required to consent to a modification or amendment of the Indenture or required to consent to a waiver of compliance with certain provisions of the Indenture or certain defaults under the Indenture;
- a reduction in the requirements contained in the Indenture for quorum or voting; and
- a modification of any of the foregoing requirements contained in the Indenture.

Under the Indenture, the holders of at least a majority of the aggregate principal amount of the outstanding Notes may, on behalf of all holders of the Notes, waive compliance by us with any covenant or condition contained in the Indenture.

If the Notes are held by or on behalf of the Trust, no modification may be made that adversely affects the holders of the APEX in any material respect, and no termination of the Indenture may occur, and no waiver of any compliance with any covenant will be effective without the prior consent of a majority in liquidation amount of each series of APEX so affected, voting together as a single class. If the consent of the holder of each outstanding Note is required for such modification or waiver, no such modification or waiver shall be effective without the prior consent of each holder of the applicable series of APEX so affected.

We and the Indenture Trustee may execute, without the consent of any holder of Notes, any supplemental subordinated indenture for the purposes of:

- reflecting any modifications to the terms of the Notes pursuant to the terms of the Indenture with respect to a Remarketing;
- evidencing the succession of another corporation to us, and the assumption by such successor of our covenants contained in the Indenture and the Notes;
- adding covenants of us for the benefit of the holders of the Notes, transferring any property to or with the Indenture Trustee or surrendering any of our rights or powers under the Indenture;
- adding any additional events of default for the Notes;

- changing or eliminating any restrictions on the payment of principal or premium, if any, on Notes in registered form, *provided* that any such action shall not adversely affect the interests of the holders of the Notes of any series in any material respect;
- evidencing and providing for the acceptance of appointment under the Indenture by a successor trustee with respect to the Notes;
- curing any ambiguity, correcting or supplementing any provision in the Indenture that may be defective or inconsistent with any other provision therein or making any other provision with respect to matters or questions arising under the Indenture that shall not be inconsistent with any provision therein, *provided* that such other provisions shall not adversely affect the interests of the holders of the Notes in any material respect or if the Notes are beneficially owned by the Trust and for so long as any of the APEX shall remain outstanding, the holders of the APEX;
- adding to, changing or eliminating any provision of the Indenture as shall be necessary or desirable in accordance with any amendments to the Trust Indenture Act, *provided* that such action shall not adversely affect the interest of the holders of the Notes in any material respect; or
- conforming the terms of the Indenture and the Notes to the description of the Notes described elsewhere in this prospectus supplement, in the manner provided in the Indenture.

Governing Law

The Indenture and the Notes will be governed by, and construed in accordance with, the laws of the State of New York.

The Indenture Trustee

The Indenture Trustee will have all of the duties and responsibilities specified under the Trust Indenture Act. Other than its duties in a case of default, the Indenture Trustee is under no obligation to exercise any of the powers under the Indenture at the request, order or direction of any holders of Notes unless offered reasonable indemnification.

Miscellaneous

We or our affiliates may from time to time purchase any of the Notes that are then outstanding by tender, in the open market or by private agreement.

DESCRIPTION OF THE GUARANTEE

The following is a brief description of the terms of the Guarantee and supplements and to the extent inconsistent with supersedes and replaces the description of guarantees in the accompanying prospectus, including under "Description of Capital Securities and Related Instruments" below. The description does not purport to be complete in all respects and is subject to and qualified in its entirety by reference to the Guarantee, copies of which are available upon request from us as described under "Available Information" in the accompanying prospectus.

General

The following payments on the APEX, also referred to as the "*guarantee payments*," if not fully paid by the Trust, will be paid by us under a guarantee, or "*Guarantee*," that we will execute and deliver for the benefit of the holders of APEX. Pursuant to the Guarantee, we will irrevocably and unconditionally agree to pay in full the guarantee payments, without duplication:

- any accumulated and unpaid distributions required to be paid on each series of APEX, to the extent the Trust has funds available to make the payment;
- the redemption price for any APEX called for redemption other than in connection with a redemption of Capital APEX in exchange for Notes, to the extent the Trust has funds available to make the payment; and
- upon a voluntary or involuntary dissolution, winding up or liquidation of the Trust, other than in connection with a distribution of a like amount of corresponding assets to the holders of the APEX, the lesser of:
    - the aggregate of the liquidation amount and all accumulated and unpaid distributions on the APEX to the date of payment, to the extent the Trust has funds available to make the payment; and
    - the amount of assets of the Trust remaining available for distribution to holders of the APEX upon liquidation of the Trust.

Our obligation to make a guarantee payment may be satisfied by direct payment of the required amounts by us to the holders of the APEX or by causing the Trust to pay the amounts to the holders.

If we do not make a required payment on the Notes or the Contracts or after the Stock Purchase Date, a regular dividend payment on the Preferred, the Trust will not have sufficient funds to make the related payments on the relevant series of APEX. The Guarantee does not cover payments on the APEX when the Trust does not have sufficient funds to make these payments. If we do not pay any amounts on the Notes or the Contracts when due, holders of the relevant series of APEX will have to rely on the enforcement by the Property Trustee of its rights as registered holder of the Notes and Contracts or proceed directly against us for payment of any amounts due on the Notes and Contracts. See "— Status of the Guarantee" below. Because we are a holding company, our rights to participate in the assets of any of our subsidiaries upon the subsidiary's liquidation or reorganization will be subject to the prior claims of the subsidiary's creditors except to the extent that we may ourselves be a creditor with recognized claims against the subsidiary. The Guarantee does not limit the incurrence or issuance by us of other secured or unsecured indebtedness.

The Guarantee will be qualified as an indenture under the Trust Indenture Act. The Bank of New York will act as "*Guarantee Trustee*" for the Guarantee for purposes of compliance with the provisions of the Trust Indenture Act. The Guarantee Trustee will hold the Guarantee for the benefit of the holders of the APEX.

Effect of the Guarantee

The Guarantee, when taken together with our obligations under the Indenture and Contracts and the Trust's obligations under the Trust Agreement, including the obligations to pay costs, expenses, debts and liabilities of the Trust, other than with respect to the Trust securities, has the effect of providing a full and unconditional guarantee, on a subordinated basis, of payments due on the APEX. See "Relationship among APEX, Junior Subordinated Notes, Stock Purchase Contracts and Guarantee" below.

We will also agree separately to irrevocably and unconditionally guarantee the obligations of the Trust with respect to the Trust Common Securities to the same extent as the Guarantee.

Status of the Guarantee

The Guarantee will be unsecured and will rank:

- subordinate and junior in right of payment to all our senior and subordinated debt in the same manner as our Notes as set forth in the Indenture; and
- equally with all other guarantees for payments on APEX that we issue in the future to the extent the related subordinated notes by their terms rank *pari passu* with the Notes, our subordinated notes that we issue in the future to the extent that by their terms rank *pari passu* with the Notes and any of our other present or future obligations that by their terms rank *pari passu* with such Guarantee.

The Guarantee will constitute a guarantee of payment and not of collection, which means that the guaranteed party may sue the guarantor to enforce its rights under the Guarantee without suing any other person or entity. The Guarantee will be held for the benefit of the holders of the APEX. The Guarantee will be discharged only by payment of the guarantee payments in full to the extent not paid by the Trust.

Amendments and Assignment

The Guarantee may be amended only with the prior approval of the holders of not less than a majority in aggregate liquidation amount of the outstanding APEX. The holders of Normal APEX, Stripped APEX and Capital APEX will also be entitled to vote separately to the extent that any proposed amendment would not affect each series in the same or substantially the same manner. No vote will be required, however, for any changes that do not adversely affect the rights of holders of the APEX in any material respect. All guarantees and agreements contained in the Guarantee will bind our successors, assignees, receivers, trustees and representatives and will be for the benefit of the holders of the APEX then outstanding.

Termination of the Guarantee

The Guarantee will terminate:

- upon full payment of the redemption price of all APEX; or
- upon full payment of the amounts payable in accordance with the Trust Agreement upon liquidation of the Trust.

The Guarantee will continue to be effective or will be reinstated, as the case may be, if at any time any holder of APEX must restore payment of any sums paid under the APEX or the Guarantee.

Events of Default

An event of default under the Guarantee will occur if we fail to perform any payment obligation or if we fail to perform any other obligation under the Guarantee and such default remains unremedied for 30 days.

The holders of a majority in liquidation amount of the relevant series of APEX have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Guarantee Trustee in respect of the Guarantee or to direct the exercise of any trust or power conferred upon the Guarantee Trustee under the Guarantee. Any holder of APEX may institute a legal proceeding directly against us to enforce the Guarantee Trustee's rights and our obligations under the Guarantee, without first instituting a legal proceeding against the Trust, the Guarantee Trustee or any other person or entity.

As guarantor, we are required to file annually with the Guarantee Trustee a certificate as to whether or not we are in compliance with all applicable conditions and covenants under the Guarantee.

Information Concerning the Guarantee Trustee

Prior to the occurrence of an event of default relating to the Guarantee, the Guarantee Trustee is required to perform only the duties that are specifically set forth in the Guarantee. Following the occurrence of an event of default, the Guarantee Trustee will exercise the same degree of care as a prudent individual would exercise in the conduct of his or her own affairs. Provided that the foregoing requirements have been met, the Guarantee Trustee is under no obligation to exercise any of the powers vested in it by the Guarantee at the request of any holder of APEX, unless offered indemnity satisfactory to it against the costs, expenses and liabilities which might be incurred thereby.

We and our affiliates may maintain certain accounts and other banking relationships with the Guarantee Trustee and its affiliates in the ordinary course of business.

Governing Law

The Guarantee will be governed by, and construed in accordance with, the laws of the State of New York.

RELATIONSHIP AMONG APEX, JUNIOR SUBORDINATED NOTES, SERIES E PREFERRED STOCK, STOCK PURCHASE CONTRACTS AND GUARANTEE

As set forth in the Trust Agreement, the exclusive purposes of the Trust are:

- issuing the APEX and the Trust Common Securities;
- investing the gross proceeds of the APEX and the Trust Common Securities in the Notes;
- entering into and holding the Contracts for the Trust to purchase shares of the Preferred from us on the Stock Purchase Date;
- holding Notes and certain U.S. treasury securities, and pledging them to secure the Trust's obligations under the Contracts;
- purchasing shares of the Preferred pursuant to the Contracts on the Stock Purchase Date and holding it thereafter;
- selling Notes in a Remarketing or an Early Remarketing; and
- engaging in other activities that are directly related to the activities described above.

As long as payments of interest, Contract Payments and other payments are made when due on the Notes and the Contracts and dividends are declared and paid on the Preferred, those payments will be sufficient to cover the distributions and payments due on the Trust securities. This is due to the following factors:

- prior to the Stock Purchase Date, the Trust will hold an aggregate principal amount of Notes and aggregate stated amount of Contracts equal to the *sum* of the aggregate liquidation amount of the Normal APEX and Trust Common Securities, the combined interest rate on the Notes and Contract Payment rate on the Contracts will match the distribution rate on the Normal APEX and Trust Common Securities and the interest, Contract Payment and other payment dates on the Notes and the Contracts will match the Distribution Dates for the Normal APEX and Trust Common Securities;
- the Trust will hold an aggregate principal amount of Qualifying Treasury Securities and aggregate stated amount of Contracts equal to the aggregate stated liquidation amount of the Stripped APEX, the Contract Payment rate on the Contracts will match the distribution rate on the Stripped APEX, the entitlement to additional distributions on the Stripped APEX in respect of the Qualifying Treasury Securities will match the amount of such distributions to which the Trust is entitled under the Collateral Agreement and the Contract Payment and other payment dates on the Contracts will match the Distribution Dates for the Stripped APEX;
- the Trust will hold an aggregate principal amount of Notes equal to the aggregate stated liquidation amount of the Capital APEX and the interest rate and interest payment dates on the Notes will match the distribution rate and payment dates on the Capital APEX;
- after the Stock Purchase Date, the Trust will hold an aggregate Liquidation Preference of Preferred equal to the aggregate liquidation amount of the Normal APEX and Trust Common Securities and the dividend payment rates and dates on the Preferred will match the distribution payment rates and dates on the Normal APEX and the Trust Common Securities;
- under the Guarantee Agreement, we will pay, and the Trust will not be obligated to pay, directly or indirectly, all costs, expenses, debts and obligations of the Trust, other than those relating to such Trust securities; and

- the Trust Agreement further provides that the trustees may not cause or permit the Trust to engage in any activity that is not consistent with the purposes of the Trust.

To the extent that funds are available, we guarantee payments of distributions and other payments due on the Trust securities to the extent described in this prospectus supplement. If we do not make interest payments on the Notes, Contract Payments on the Contracts or dividend payments on the Preferred, the Trust will not have sufficient funds to pay distributions on the Trust securities. The Guarantee is a subordinated guarantee in relation to the Trust securities. The Guarantee does not apply to any payment of distributions unless and until the Trust has sufficient funds for the payment of such distributions. See "Description of the Guarantee" above.

We have the right to set off any payment that we are otherwise required to make under the Indenture or the Contracts with any payment that we have previously made or are concurrently, on the date of such payment, making under the Guarantee.

The Guarantee covers the payment of distributions and other payments on the Trust securities only if and to the extent that we have made a payment of interest or principal or other payments on the Notes, Contract Payments on the Contracts and dividends or redemption payments on the Preferred, as applicable. The Guarantee, when taken together with our obligations under the Notes and the Indenture, our obligations under the Contracts and our obligations under the Trust Agreement, will provide a full and unconditional guarantee of distributions, redemption payments and liquidation payments on the Trust securities.

If we fail to make interest or other payments on the Notes when due, taking into account any deferral period, the Trust Agreement allows the holders of the Normal APEX and Capital APEX to direct the Property Trustee to enforce its rights under the Notes. If the Property Trustee fails to enforce these rights, any holder of Normal APEX or Capital APEX may directly sue us to enforce such rights without first suing the Property Trustee or any other person or entity.

A holder of Normal APEX or Capital APEX may institute a direct action if we fail to make interest or other payments on the Notes when due, taking into account any deferral period.

A direct action may be brought without first:

- directing the Property Trustee to enforce the terms of the Notes; or
- suing us to enforce the Property Trustee's rights under the Notes.

If we fail to make Contract Payments on the Contracts when due, taking into account any deferral period, the Trust Agreement allows the holders of the Normal APEX and Stripped APEX to direct the Property Trustee to enforce its rights under the Contracts. If the Property Trustee fails to enforce these rights, any holder of Normal APEX or Stripped APEX may directly sue us to enforce such rights without first suing the Property Trustee or any other person or entity.

A holder of Normal APEX or Stripped APEX may institute a direct action if we fail to make Contract Payments on the Contracts when due, taking into account any deferral period. A direct action may be brought without first:

- directing the Property Trustee to enforce the terms of the Contracts; or
- suing us to enforce the Property Trustee's rights under the Contracts.

We acknowledge that the Guarantee Trustee will enforce the Guarantee on behalf of the holders of the Normal APEX, Stripped APEX and Capital APEX. If we fail to make payments under the Guarantee, the holders of the Normal APEX, Stripped APEX and Capital APEX may direct the Guarantee Trustee to enforce its rights under such Guarantee. If the Guarantee Trustee fails to enforce the Guarantee, any holder of Normal APEX, Stripped APEX or Capital APEX may directly sue us to enforce the Guarantee Trustee's rights under the Guarantee. Such holder need not first sue the Trust, the Guarantee Trustee, or any other person or entity. A holder of Normal APEX, Stripped APEX

or Capital APEX may also directly sue us to enforce such holder's right to receive payment under the Guarantee. Such holder need not first direct the Guarantee Trustee to enforce the terms of the Guarantee or sue the Trust or any other person or entity.

We and the Trust believe that the above mechanisms and obligations, taken together, are equivalent to a full and unconditional guarantee by us of payments due on the Normal APEX, Stripped APEX and Capital APEX.

Limited Purpose of Trust

The Trust securities evidence beneficial interests in the Trust. A principal difference between the rights of a holder of a Trust security and a holder of Notes, Contracts or Preferred is that a holder of Notes, Contracts or Preferred would be entitled to receive from the issuer the principal amount of and interest accrued on such Notes, Contracts Payments on the Contracts, and dividends, redemption payments and payment upon liquidation in respect of Preferred, as the case may be, while a holder of Trust securities is entitled to receive distributions from the Trust, or from us under the Guarantee, if and to the extent the Trust has funds available for the payment of such distributions.

Rights upon Dissolution

Upon any voluntary or involuntary dissolution of the Trust, holders of each series of APEX will receive the distributions described under "Description of the APEX — Liquidation Distribution upon Dissolution" above. Upon any voluntary or involuntary liquidation or bankruptcy of GS Group, the holders of the Notes would be subordinated creditors of GS Group, subordinated in right of payment to all indebtedness senior to the Notes as set forth in the Indenture, but entitled to receive payment in full of principal and interest before any of our shareholders receive distributions, and holders of the Preferred would be preferred shareholders of GS Group, entitled to the preferences upon liquidation described under "Description of the Series E Preferred Stock" below. Since we are the guarantor under the Guarantee and have agreed to pay for all costs, expenses and liabilities of the Trust, other than the Trust's obligations to the holders of the Trust securities, the positions of a holder of APEX relative to other creditors and to our shareholders in the event of liquidation or bankruptcy are expected to be substantially the same as if that holder held the corresponding assets of the Trust directly.

DESCRIPTION OF THE SERIES E PREFERRED STOCK

The following is a brief description of the terms of the Preferred we will issue to the Trust pursuant to the Contracts and supplements and to the extent inconsistent with, supersedes and replaces the description of *preferred stock contained in the accompanying prospectus under "Description of Preferred Stock We May Offer." This summary does not purport to be complete in all respects and is subject to and qualified in its entirety by reference to our restated certificate of incorporation, as amended, including the certificate of designations with respect to the Preferred, copies of which are available upon request from us as described under "Available Information" in the accompanying prospectus.*

General

Our authorized capital stock includes 150,000,000 shares of preferred stock, par value $0.01 per share (including the Preferred). We have 124,000 shares of perpetual non-cumulative preferred stock (designated in four separate series), with a liquidation preference of $25,000 per share, issued and outstanding as of the date of this prospectus supplement.

The Preferred will rank senior to GS Group's common stock, and equally with our previously issued Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, and Series D Preferred Stock, and at least equally with each other series of our preferred stock we may issue (except for any senior series that may be issued with the requisite consent of the holders of the Preferred, Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock and Series D Preferred Stock), with respect to the payment of dividends and distributions upon liquidation, dissolution or winding up. In addition, GS Group will generally be able to pay dividends and distributions upon liquidation, dissolution or winding up only out of lawfully available funds for such payment (*i.e.*, after taking account of all indebtedness and other non-equity claims). When issued on the Stock Purchase Date, the Preferred will be fully paid and nonassessable, which means that its holders will have paid their purchase price in full and that we may not ask them to surrender additional funds. GS Group will not issue any shares of Preferred prior to the Stock Purchase Date. Holders of the Preferred will not have preemptive or subscription rights to acquire more preferred stock of GS Group. The Preferred will not be convertible into, or exchangeable for, shares of any other class or series of stock or other securities of GS Group, except under certain limited circumstances described below under "— Regulatory Changes Relating to Capital Adequacy". The Preferred has no stated maturity and will not be subject to any sinking fund or other obligation of GS Group to redeem or repurchase the Preferred.

As of the date of this prospectus supplement, we have 30,000,000 depositary shares, each representing a 1/1,000th ownership interest in a share of our Series A Preferred Stock, with an aggregate liquidation preference of $750,000,000, 32,000,000 depositary shares, each representing a 1/1,000th ownership interest in a share of our Series B Preferred Stock, with an aggregate liquidation preference of $800,000,000, 8,000,000 depositary shares, each representing a 1/1,000th ownership interest in a share of our Series C Preferred Stock, with an aggregate liquidation preference of $200,000,000, and 54,000,000 depository shares, each representing a 1/1,000th ownership interest in a share of our Series D Preferred Stock, with an aggregate liquidation preference of $1,350,000,000, issued and outstanding. The Series A Preferred Stock, the Series B Preferred Stock, the Series C Preferred Stock and the Series D Preferred Stock will rank equally with the Preferred as to dividends and distributions on liquidation and include the same provisions with respect to restrictions on declaration and payment of dividends and voting rights as apply to the Preferred.

Holders of the Series A Preferred Stock are entitled to receive quarterly dividends when, as and if declared by our board of directors (or a duly authorized committee of the board), at a rate *per annum* equal to the greater of (1) 0.75% above LIBOR on the related LIBOR determination date or (2) 3.75%. Holders of the Series B Preferred Stock are entitled to receive quarterly dividends when, as and if declared by our board of directors (or a duly authorized committee of the board), at a rate of 6.20% *per annum.* Holders of the Series C Preferred Stock are entitled to receive quarterly dividends when,

as and if declared by our board of directors (or a duly authorized committee of the board), at a rate *per annum* equal to the greater of (1) 0.75% above LIBOR on the related LIBOR determination date or (2) 4.00%. Holders of the Series D Preferred Stock are entitled to receive quarterly dividends when, as and if declared by our board of directors (or a duly authorized committee of the board), at a rate *per annum* equal to the greater of (1) 0.67% above LIBOR on the related LIBOR determination date or (2) 4.00%.

Prior to the issuance of the APEX, we will have filed a certificate of designations with respect to the Preferred with the Secretary of State of Delaware. When issued, the Preferred will have a fixed liquidation preference of $100,000 per share. If we liquidate, dissolve or wind up our affairs, holders of the Preferred will be entitled to receive, out of our assets that are available for distribution to shareholders, an amount per share equal to the liquidation preference per share, *plus* any declared and unpaid dividends, without regard to any undeclared dividends.

We will issue the Preferred to the Trust on the Stock Purchase Date. Unless the Trust is dissolved after the Stock Purchase Date and prior to the redemption of the Preferred, holders of Normal APEX and Stripped APEX will not receive shares of the Preferred, and their interest in the Preferred will be represented from and after the Stock Purchase Date by their Normal APEX or Stripped APEX. If the Trust is dissolved after the Stock Purchase Date, we may elect to distribute depositary shares representing the Preferred instead of fractional shares. Since the Preferred will be held by the Property Trustee, holders of Normal APEX or Stripped APEX will only be able to exercise voting or other rights with respect to the Preferred through the Property Trustee.

Dividends

Dividends on shares of the Preferred will not be mandatory. Holders of the Preferred will be entitled to receive, when, as and if declared by our board of directors (or a duly authorized committee of the board), out of funds legally available for the payment of dividends under Delaware law, non-cumulative cash dividends from the date of their issuance. These dividends will be payable (a) if the Preferred is issued prior to June 1, 2012, at a rate equal to 5.793% *per annum* until the Dividend Payment Date in June 2012, and (b) thereafter, at a rate *per annum* that will be reset quarterly and will equal the greater of (i) LIBOR for the related Dividend Period *plus* 0.7675% and (ii) 4.000% (the "*Dividend Rate*"), applied to the $100,000 liquidation preference amount per share and will be paid (a) if the Preferred is issued prior to June 1, 2012 (or if such date is not a business day, the next business day), the June 1 and December 1 of each year until June 1, 2012; and (b) thereafter, March 1, June 1, September 1 and December 1 of each year, commencing on the first such date following the Stock Purchase Date (each, a "*Dividend Payment Date*"), with respect to the Dividend Period, or portion thereof, ending on the day preceding the respective Dividend Payment Date.

Dividends will be payable to holders of record of the Preferred as they appear on our books on the applicable record date, which shall be the 15th calendar day before that Dividend Payment Date or such other record date fixed by our board of directors (or a duly authorized committee of the board) that is not more than 60 nor less than 10 days prior to such dividend payment date (each, a "*Dividend Record Date*"). These Dividend Record Dates will apply regardless of whether a particular Dividend Record Date is a business day.

A "*Dividend Period*" is the period from and including a Dividend Payment Date to but excluding the next Dividend Payment Date, except that the first Dividend Period for the initial issuance of the Preferred will commence upon the Stock Purchase Date. The Dividend Rate will be reset quarterly commencing June 1, 2012. If any day on or after June 1, 2012 that would otherwise be a Dividend Payment Date is not a business day, then the next business day will be the applicable Dividend Payment Date. If a Dividend Payment Date prior to June 1, 2012 is not a business day, the applicable dividend shall be paid on the first business day following that day without adjustment.

The amount of dividends payable per share of the Preferred on each Dividend Payment Date will be calculated by (a) if the Preferred is issued prior to June 1, 2012, on the basis of a 360-day year consisting of twelve 30-day months until the Dividend Payment Date in June 2012, and (b) thereafter, *multiplying* the *per annum* Dividend Rate in effect for that Dividend Period by a fraction, the numerator of which will be the actual number of days in that Dividend Period and the denominator of which will be 360, and *multiplying* the rate obtained by $100,000.

For any Dividend Period beginning on or after the later of June 1, 2012 and the Stock Purchase Date, LIBOR shall be determined by Goldman, Sachs & Co., as calculation agent for the Preferred, on the second London business day immediately preceding the first day of such Dividend Period in the following manner:

- LIBOR will be the offered rate *per annum* for three-month deposits in U.S. dollars, beginning on the first day of such period, as that rate appears on Reuters Screen LIBOR01 (or any successor or replacement page) as of 11:00 A.M., London time, on the second London business day immediately preceding the first day of such Dividend Period.

- If the rate described above does not appear on Reuters Screen LIBOR01 (or any successor or replacement page), LIBOR will be determined on the basis of the rates, at approximately 11:00 A.M., London time, on the second London business day immediately preceding the first day of such Dividend Period, at which deposits of the following kind are offered to prime banks in the London interbank market by four major banks in that market selected by the calculation agent: three-month deposits in U.S. dollars, beginning on the first day of such Dividend Period, and in a Representative Amount. The calculation agent will request the principal London office of each of these banks to provide a quotation of its rate. If at least two quotations are provided, LIBOR for the second London business day immediately preceding the first day of such Dividend Period will be the arithmetic mean of the quotations.

- If fewer than two quotations are provided as described above, LIBOR for the second London business day immediately preceding the first day of such Dividend Period will be the arithmetic mean of the rates for loans of the following kind to leading European banks quoted, at approximately 11:00 A.M. New York City time on the second London business day immediately preceding the first day of such Dividend Period, by three major banks in New York City selected by the calculation agent: three-month loans of U.S. dollars, beginning on the first day of such Dividend Period, and in a Representative Amount.

- If fewer than three banks selected by the calculation agent are quoting as described above, LIBOR for the new Dividend Period will be LIBOR in effect for the prior Dividend Period.

The calculation agent's determination of any dividend rate, and its calculation of the amount of dividends for any Dividend Period, will be on file at our principal offices, will be made available to any stockholder upon request and will be final and binding in the absence of manifest error.

In this subsection, we use several terms that have special meanings relevant to calculating LIBOR. We define these terms as follows:

The term *"Representative Amount"* means an amount that, in the calculation agent's judgment, is representative of a single transaction in the relevant market at the relevant time.

"*Reuters Screen LIBOR01 Page*" means the display designated on the Reuters 3000 Xtra (or such other page as may replace that page on that service or such other service as may be nominated by the British Bankers' Association for the purpose of displaying London interbank offered rates for U.S. Dollar deposits).

The term *"business day"* means a day that is a Monday, Tuesday, Wednesday, Thursday or Friday and is not a day on which banking institutions in New York City generally are authorized or obligated by law or executive order to close.

The term *"London business day"* means a day that is a Monday, Tuesday, Wednesday, Thursday or Friday and is a day on which dealings in U.S. dollars are transacted in the London interbank market.

If we determine not to pay any dividend or a full dividend, we will provide prior written notice to the Property Trustee, who will notify holders of Normal APEX and Stripped APEX, if then outstanding, and the administrative trustees.

Dividends on shares of Preferred will not be cumulative. Accordingly, if the board of directors of GS Group (or a duly authorized committee of the board) does not declare a dividend on the Preferred payable in respect of any Dividend Period before the related Dividend Payment Date, such dividend will not accrue and we will have no obligation to pay a dividend for that Dividend Period on the Dividend Payment Date or at any future time, whether or not dividends on the Preferred are declared for any future Dividend Period.

So long as any share of Preferred remains outstanding, no dividend shall be paid or declared on our common stock or any other shares of our Junior Stock (as defined below) (other than a dividend payable solely in Junior Stock), and no common stock or other Junior Stock shall be purchased, redeemed or otherwise acquired for consideration by us, directly or indirectly (other than as a result of a reclassification of Junior Stock for or into other Junior Stock, or the exchange or conversion of one share of Junior Stock for or into another share of Junior Stock and other than through the use of the proceeds of a substantially contemporaneous sale of Junior Stock), during a Dividend Period, unless the full dividends for the latest completed Dividend Period on all outstanding shares of Preferred have been declared and paid (or declared and a sum sufficient for the payment thereof has been set aside). However, the foregoing provision shall not restrict the ability of Goldman, Sachs & Co., or any of our other affiliates, to engage in any market-making transactions in our Junior Stock in the ordinary course of business.

As used in this prospectus supplement, "*Junior Stock*" means any class or series of stock of GS Group that ranks junior to the Preferred either as to the payment of dividends or as to the distribution of assets upon any liquidation, dissolution or winding up of GS Group's Junior Stock includes GS Group's common stock.

When dividends are not paid (or declared and a sum sufficient for payment thereof set aside) on any Dividend Payment Date (or, in the case of Parity Stock, as defined below, having Dividend Payment Dates different from the Dividend Payment Dates pertaining to the Preferred, on a Dividend Payment Date falling within the related Dividend Period for the Preferred) in full upon the Preferred and any shares of Parity Stock, all dividends declared upon the Preferred and all such equally ranking securities payable on such Dividend Payment Date (or, in the case of parity stock having dividend payment dates different from the dividend payment dates pertaining to the Preferred, on a dividend payment date falling within the related Dividend Period for the Preferred) shall be declared *pro rata* so that the respective amounts of such dividends shall bear the same ratio to each other as all accrued but unpaid dividends per share on the Preferred and all Parity Stock payable on such Dividend Payment Date (or, in the case of parity stock having dividend payment dates different from the dividend payment dates pertaining to the Preferred, on a dividend payment date falling within the related Dividend Period for the Preferred) bear to each other.

As used in this prospectus supplement, "*Parity Stock*" means any other class or series of stock of GS Group that ranks equally with the Preferred in the payment of dividends and in the distribution of assets on any liquidation, dissolution or winding up of GS Group. Parity Stock includes the Series A

Preferred Stock, the Series B Preferred Stock, the Series C Preferred Stock and the Series D Preferred Stock.

Subject to the foregoing, such dividends (payable in cash, stock or otherwise) as may be determined by our board of directors (or a duly authorized committee of the board) may be declared and paid on our common stock and any other stock ranking equally with or junior to the Preferred from time to time out of any funds legally available for such payment, and the shares of the Preferred shall not be entitled to participate in any such dividend.

Redemption

The Preferred may not be redeemed prior to the later of June 1, 2012 and the Stock Purchase Date. On that date or on any date after that date (but subject to the limitations described below under "Replacement Capital Covenant"), the Preferred may be redeemed, in whole or in part, at our option. Any such redemption will be at a cash redemption price of $100,000 per share, *plus* any declared and unpaid dividends including, without regard to any undeclared dividends. Holders of Preferred will have no right to require the redemption or repurchase of the Preferred. If notice of redemption of any Preferred has been given and if the funds necessary for the redemption have been set aside by us for the benefit of the holders of any shares of Preferred so called for redemption, then, from and after the redemption date, those shares shall no longer be deemed outstanding and all rights of the holders of those shares (including the right to receive any dividends) will terminate, except the right to receive the redemption price.

If fewer than all of the outstanding shares of Preferred are to be redeemed, the shares to be redeemed will be selected either *pro rata* from the holders of record of shares of Preferred in proportion to the number of shares held by those holders or by lot or in such other manner as our board of directors or a committee thereof may determine to be fair and equitable.

We will mail notice of every redemption of Preferred by first class mail, postage prepaid, addressed to the holders of record of the Preferred to be redeemed at their respective last addresses appearing on our books. This mailing will be at least 30 days and not more than 60 days before the date fixed for redemption (*provided* that if the Preferred is held in book-entry form through DTC, we may give this notice in any manner permitted by DTC). Any notice mailed or otherwise given as provided in this paragraph will be conclusively presumed to have been duly given, whether or not the holder receives this notice, and failure duly to give this notice by mail or otherwise, or any defect in this notice or in the mailing or provision of this notice, to any holder of Preferred designated for redemption will not affect the redemption of any other Preferred. If we redeem the Preferred, the Trust, as holder of the Preferred, will redeem the corresponding Normal APEX as described under "Description of the APEX — Mandatory Redemption of Normal APEX upon Redemption of Series E Preferred Stock" above.

Each notice shall state:

- the redemption date;
- the number of shares of Preferred to be redeemed and, if less than all shares of Preferred held by the holder are to be redeemed, the number of shares to be redeemed from the holder;
- the redemption price; and
- the place or places where the Preferred is to be redeemed.

Our right to redeem the Preferred once issued is subject to two important limitations. First, any redemption of the Preferred may be subject to prior approval of the SEC. Moreover, unless the SEC authorizes us to do otherwise in writing, we will redeem the Preferred only if it is replaced with other Allowable Capital in accordance with the SEC's CSE Rules — for example, common stock or another

series of perpetual non-cumulative preferred stock. Second, at or prior to the initial issuance of the APEX, we will enter into a Replacement Capital Covenant, described under "Replacement Capital Covenant" below, relating to the APEX, the Notes and the shares of the Preferred that we will issue under the Contracts. The Replacement Capital Covenant only benefits holders of Covered Debt, as defined below, and is not enforceable by holders of APEX or the Preferred. However, the Replacement Capital Covenant could preclude us from repurchasing APEX or redeeming or repurchasing shares of the Preferred at a time we might otherwise wish to do so.

Regulatory Changes Relating to Capital Adequacy

We are regulated by the SEC as a CSE pursuant to the CSE Rules. We intend to treat the Preferred as Allowable Capital.

If the regulatory capital requirements that apply to us change in the future, the Preferred may be converted, at our option and without your consent, into a new series of preferred stock, subject to the limitations described below. We will be entitled to exercise this conversion right as follows.

If both of the following occur:

- after the date of this prospectus supplement, we (by election or otherwise) become subject to any law, rule, regulation or guidance (together, "regulations") relating to our capital adequacy, which regulation (i) modifies the existing requirements for treatment as Allowable Capital, (ii) provides for a type or level of capital characterized as "Tier 1" or its equivalent pursuant to regulations of any governmental body having jurisdiction over us (or any of our subsidiaries or consolidated affiliates) and implementing capital standards published by the Basel Committee on Banking Supervision, the SEC, the Board of Governors of the Federal Reserve System or any other United States national governmental body, or any other applicable regime based on capital standards published by the Basel Committee on Banking Supervision or its successor, or (iii) provides for a type of capital that in our judgment (after consultation with counsel of recognized standing) is substantially equivalent to such "Tier 1" capital (such capital described in either (ii) or (iii) is referred to below as "Tier 1 Capital Equivalent"), and

- we affirmatively elect to qualify the Preferred for such Allowable Capital or Tier 1 Capital Equivalent treatment without any sublimit or other quantitative restriction on the inclusion of the Preferred in Allowable Capital or Tier 1 Capital Equivalent (other than any limitation we elect to accept and any limitation requiring that common equity or a specified form of common equity constitute the dominant form of Allowable Capital or Tier 1 Capital Equivalent) under such regulations,

then, upon such affirmative election, the Preferred shall be convertible at our option into a new series of preferred stock having terms and provisions substantially identical to those of the Preferred, except that such new series may have such additional or modified rights, preferences, privileges and voting powers, and such limitations and restrictions thereof, as are necessary, in our judgment (after consultation with counsel of recognized standing), to comply with the Required Unrestricted Capital Provisions (defined below), provided that we will not cause any such conversion unless we determine that the rights, preferences, privileges and voting powers of such new series of preferred stock, taken as a whole, are not materially less favorable to the holders thereof than the rights, preferences, privileges and voting powers of the Preferred, taken as a whole. For example, we could agree to restrict our ability to pay dividends on or redeem the new series of preferred stock for a specified period or indefinitely, to the extent permitted by the terms and provisions of the new series of preferred stock, since such a restriction would be permitted in our discretion under the terms and provisions of the Preferred.

We will provide notice to holders of the Preferred of any election to qualify the Preferred for Allowable Capital or Tier 1 Capital Equivalent treatment and of any determination to convert the

Preferred into a new series of preferred stock, promptly upon the effectiveness of any such election or determination. A copy of any such notice and of the relevant regulations will be on file at our principal offices and, upon request, will be made available to any stockholder.

As used above, the term "Required Unrestricted Capital Provisions" means the terms that are, in our judgment (after consultation with counsel of recognized standing), required for preferred stock to be treated as Allowable Capital or Tier 1 Capital Equivalent, as applicable, without any sublimit or other quantitative restriction on the inclusion of such preferred stock in Allowable Capital or Tier 1 Capital Equivalent (other than any limitation we elect to accept and any limitation requiring that common equity or a specified form of common equity constitute the dominant form of Allowable Capital or Tier 1 Capital Equivalent) pursuant to applicable regulations.

Liquidation Rights

Upon any voluntary or involuntary liquidation, dissolution or winding up of GS Group, holders of the Preferred are entitled to receive out of assets of GS Group available for distribution to stockholders, after satisfaction of liabilities to creditors, if any, before any distribution of assets is made to holders of common stock or of any of our other shares of stock ranking junior as to such a distribution to the shares of Preferred, a liquidating distribution in the amount of $100,000 per share, *plus* declared and unpaid dividends, without accumulation of any undeclared dividends. Holders of the Preferred will not be entitled to any other amounts from us after they have received their full liquidation preference.

In any such distribution, if the assets of GS Group are not sufficient to pay the liquidation preferences in full to all holders of the Preferred and all holders of any other shares of our stock ranking equally as to such distribution with the Preferred, the amounts paid to the holders of Preferred and to the holders of all such other stock will be paid *pro rata* in accordance with the respective aggregate liquidation preferences of those holders. In any such distribution, the "liquidation preference" of any holder of preferred stock means the amount payable to such holder in such distribution, including any declared but unpaid dividends (and any unpaid, accrued cumulative dividends in the case of any holder of stock on which dividends accrue on a cumulative basis). If the liquidation preference has been paid in full to all holders of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Preferred and any other shares of our stock ranking equally as to the liquidation distribution, the holders of our other stock shall be entitled to receive all remaining assets of GS Group according to their respective rights and preferences.

For purposes of this section, the merger or consolidation of GS Group with any other entity, including a merger or consolidation in which the holders of Preferred receive cash, securities or property for their shares, or the sale, lease or exchange of all or substantially all of the assets of GS Group for cash, securities or other property shall not constitute a liquidation, dissolution or winding up of GS Group.

Voting Rights

Except as provided below, the holders of the Preferred will have no voting rights.

Whenever dividends on any shares of the Preferred shall have not been declared and paid for a period or periods, whether or not consecutive, equivalent to at least 18 months (a "*Nonpayment*"), the holders of such shares, voting together as a class with holders of any and all other series of voting preferred stock (as defined below) then outstanding, will be entitled to vote for the election of a total of two additional members of our board of directors (the "*Preferred Stock Directors*"), *provided* that the election of any such director shall not cause us to violate the corporate governance requirement of the New York Stock Exchange (or any other exchange on which our securities may be listed) that listed companies must have a majority of independent directors and *provided further* that our board of directors shall at no time include more than two Preferred Stock Directors. In that event, the number of directors on our board of directors shall automatically increase by two, and the new directors shall be elected at a special meeting called at the request of the holders of record of at least 20% of the

Preferred or of any other series of voting preferred stock (unless such request is received less than 90 days before the date fixed for the next annual or special meeting of the stockholders, in which event such election shall be held at such next annual or special meeting of stockholders), and at each subsequent annual meeting. These voting rights will continue until dividends on the shares of the Preferred and any such series of voting preferred stock for at least one year following the Nonpayment shall have been fully paid (or declared and a sum sufficient for the payment of such dividends shall have been set aside for payment).

As used in this prospectus supplement, "*voting preferred stock*" means any other class or series of preferred stock of GS Group ranking equally with the Preferred either as to dividends or the distribution of assets upon liquidation, dissolution or winding up and upon which like voting rights have been conferred and are exercisable. Voting preferred stock includes the Series A Preferred Stock, the Series B Preferred Stock, the Series C Preferred Stock and the Series D Preferred Stock to the extent their like voting rights are exercisable at such time. Whether a plurality, majority or other portion of the shares of Preferred and any other voting preferred stock have been voted in favor of any matter shall be determined by reference to the liquidation amounts of the shares voted.

If and when dividends for a number of Dividend Periods, whether or not consecutive, equivalent to at least one year following a Nonpayment have been paid in full (or declared and a sum sufficient for such payment shall have been set aside), the holders of the Preferred shall be divested of the foregoing voting rights (subject to revesting in the event of each subsequent Nonpayment) and, if such voting rights for all other holders of voting preferred stock have terminated, the term of office of each Preferred Stock Director so elected shall terminate and the number of directors on the board of directors shall automatically decrease by two. In determining whether dividends have been paid for a number of Dividend Periods, whether or not consecutive, equivalent to at least one year following a Nonpayment, we may take account of any dividend we elect to pay for a Dividend Period after the regular dividend date for that period has passed. Any Preferred Stock Director may be removed at any time without cause by the holders of record of a majority of the outstanding shares of the Preferred when they have the voting rights described above (voting together as a class with all series of voting preferred stock then outstanding). So long as a Nonpayment shall continue, any vacancy in the office of a Preferred Stock Director (other than prior to the initial election after a Nonpayment) may be filled by the written consent of the Preferred Stock Director remaining in office, or if none remains in office, by a vote of the holders of record of a majority of the outstanding shares of Preferred and all voting preferred stock when they have the voting rights described above (voting together as a class). The Preferred Stock Directors shall each be entitled to one vote per director on any matter.

So long as any shares of Preferred remain outstanding, we will not, without the affirmative vote or consent of the holders of at least two-thirds of the outstanding shares of the Preferred and all other series of voting preferred stock entitled to vote thereon, voting together as a single class, given in person or by proxy, either in writing or at a meeting:

- amend or alter the provisions of GS Group's restated certificate of incorporation or the certificate of designations of the Preferred so as to authorize or create, or increase the authorized amount of, any class or series of stock ranking senior to the Preferred with respect to payment of dividends or the distribution of assets upon liquidation, dissolution or winding up of GS Group;

- amend, alter or repeal the provisions of GS Group's restated certificate of incorporation or the certificate of designation of the Preferred so as to materially and adversely affect the special rights, preferences, privileges and voting powers of the Preferred, taken as a whole; or

- consummate a binding share exchange or reclassification involving the Preferred or a merger or consolidation of GS Group with another entity, unless in each case (i) the shares of Preferred remain outstanding or, in the case of any such merger or consolidation with

respect to which we are not the surviving or resulting entity, are converted into or exchanged for preference securities of the surviving or resulting entity or its ultimate parent, and (ii) such shares remaining outstanding or such preference securities, as the case may be, have such rights, preferences, privileges and voting powers, taken as a whole, as are not materially less favorable to the holders thereof than the rights, preferences, privileges and voting powers of the Preferred, taken as a whole;

provided, *however*, that any increase in the amount of the authorized or issued Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock or the Preferred or authorized preferred stock or the creation and issuance, or an increase in the authorized or issued amount, of other series of preferred stock ranking equally with and/or junior to the Preferred with respect to the payment of dividends (whether such dividends are cumulative or non-cumulative) and/or the distribution of assets upon liquidation, dissolution or winding up of GS Group will not be deemed to adversely affect the rights, preferences, privileges or voting powers of the Preferred. In addition, any conversion of the Preferred upon the occurrence of certain regulatory events, as discussed under "— Regulatory Changes Relating to Capital Adequacy" above, will not be deemed to adversely affect the rights, preferences, privileges or voting powers of the Preferred.

If an amendment, alteration, repeal, share exchange, reclassification, merger or consolidation described above would adversely affect one or more but not all series of voting preferred stock (including the Preferred for this purpose), then only the series affected and entitled to vote shall vote as a class in lieu of all such series of preferred stock.

Without the consent of the holders of the Preferred, so long as such action does not adversely affect the rights, preferences, privileges and voting powers of the Preferred, we may amend, alter, supplement or repeal any terms of the Preferred:

- to cure any ambiguity, or to cure, correct or supplement any provision contained in the certificate of designations for the Preferred that may be defective or inconsistent; or
- to make any provision with respect to matters or questions arising with respect to the Preferred that is not inconsistent with the provisions of the certificate of designations.

The foregoing voting provisions will not apply if, at or prior to the time when the act with respect to which such vote would otherwise be required shall be effected, all outstanding shares of the Preferred shall have been redeemed or called for redemption upon proper notice and sufficient funds shall have been set aside by us for the benefit of the holders of the Preferred to effect such redemption.

Form

The Preferred will be issued only in fully registered form. No fractional shares will be issued unless the Trust is dissolved and we deliver the shares, rather than depositary receipts representing the shares, to the registered holders of the Normal APEX, or Stripped APEX, if then outstanding. If the Trust is dissolved after the Stock Purchase Date and depositary receipts or shares of the Preferred are distributed to holders of Normal APEX, or Stripped APEX if then outstanding, we would intend to distribute them in book-entry form only and the procedures governing holding and transferring beneficial interests in the Preferred, and the circumstances in which holders of beneficial interests will be entitled to receive certificates evidencing their shares or depositary receipts, will be as described under "Book-Entry System" below. If we determine to issue depositary shares representing fractional interests in the Preferred, each depositary share will be represented by a depositary receipt. In such an event, the Preferred represented by the depositary shares will be deposited under a deposit agreement among GS Group, a depositary and the holders from time to time of the depositary receipts representing depositary shares. Subject to the terms and conditions of any deposit agreement, each holder of a depositary share will be entitled, through the depositary, in proportion to the applicable fraction of a share of the Preferred represented by such depositary share, to all the rights

and preferences of the Preferred represented thereby (including dividends, voting, redemption and liquidation rights).

Title

We, the transfer agent and registrar for the Preferred, and any of their or our agents may treat the registered owner of the Preferred, which shall be the Property Trustee unless and until the Trust is dissolved, as the absolute owner of that stock, whether or not any payment for the Preferred shall be overdue and despite any notice to the contrary, for any purpose.

Transfer Agent and Registrar

If the Trust is dissolved after the Stock Purchase Date and shares of the Preferred or depositary receipts representing the Preferred are distributed to holders of Normal APEX, or Stripped APEX if then outstanding, we may appoint a transfer agent, registrar, calculation agent, redemption agent and dividend disbursement agent for the Preferred. The registrar for the Preferred will send notices to shareholders of any meetings at which holders of the Preferred have the right to vote on any matter.

REPLACEMENT CAPITAL COVENANT

The following is a brief description of the terms of the replacement capital covenant. It does not purport to be complete in all respects. This description is subject to and qualified in its entirety by reference to the replacement capital covenant, copies of which are available upon request from us as described under "Available Information" in the accompanying prospectus.

Replacement Capital Covenant

At or prior to the initial issuance of the Normal APEX, we will enter into a Replacement Capital Covenant, or "*Replacement Capital Covenant*," relating to the APEX, the Notes and the shares of the Preferred that we will issue under the Contracts. The Replacement Capital Covenant only benefits holders of Covered Debt, as defined below, and is not enforceable by holders of APEX or the Preferred. However, the Replacement Capital Covenant could preclude us from redeeming the Notes or repurchasing APEX or redeeming or repurchasing shares of the Preferred at a time we might otherwise wish to do so.

In the Replacement Capital Covenant, we covenant not to redeem or purchase (x) Notes or Normal APEX prior to the Stock Purchase Date or (y) Normal APEX or shares of the Preferred prior to the date that is ten years after the Stock Purchase Date, except in either case to the extent that the applicable redemption or purchase price does not exceed:

- 133.33% of the aggregate amount of (A) net cash proceeds that we or our subsidiaries have received from the issuance and sale of common stock of GS Group and rights to acquire common stock of GS Group and (B) the market value of common stock of GS Group that we or our subsidiaries have delivered or issued as consideration for property or assets in an arm's-length transaction or in connection with the conversion of any convertible or exchangeable securities, other than securities for which we have received equity credit from a nationally recognized rating agency, *plus*
- 100% of the aggregate net cash proceeds that we or our subsidiaries have received from the issuance of certain other specified securities that have equity-like characteristics that satisfy the requirements of the Replacement Capital Covenant and are the same as, or more equity-like than, the applicable characteristics of the APEX at that time,

in each case during the 180 days prior to the applicable redemption or purchase date.

Our ability to raise proceeds from qualifying securities during the 180 days prior to a proposed redemption or repurchase will depend on, among other things, market conditions at such times as well as the acceptability to prospective investors of the terms of such qualifying securities.

Our covenants in the Replacement Capital Covenant run in favor of persons that buy, hold or sell our indebtedness during the period that such indebtedness is "*Covered Debt*," which is currently comprised of our 6.345% Junior Subordinated Debentures due February 15, 2034, which have CUSIP No. 38143VAA7. Other debt will replace our Covered Debt under the Replacement Capital Covenant on the earlier to occur of:

- the date two years prior to the maturity of the existing Covered Debt; or
- the date of a redemption or repurchase of the existing Covered Debt in an amount such that the outstanding principal amount of the existing Covered Debt is or will become less than $100 million.

The Replacement Capital Covenant will not apply to the purchase of the Normal APEX, the Notes or the Preferred or any portion thereof by any subsidiary of ours in connection with their initial placement or any market-making or other secondary market activities.

The Replacement Capital Covenant is subject to various additional terms and conditions and this description is subject to and qualified in its entirety by reference to the Replacement Capital Covenant,

copies of which are available upon request from us. We may amend or supplement the Replacement Capital Covenant with the consent of the holders of a majority by principal amount of the debt that at the time of the amendment or supplement is the Covered Debt, *provided* that no such consent shall be required if (i) such amendment or supplement eliminates common stock and rights to acquire common stock as replacement capital securities if, after the date of the replacement capital covenant, an accounting standard or interpretive guidance of an existing accounting standard issued by an organization or regulator that has responsibility for establishing or interpreting accounting standards in the United States becomes effective such that there is more than an insubstantial risk that failure to eliminate common stock and rights to acquire common stock as replacement capital securities would result in a reduction in our earnings per share as calculated in accordance with generally accepted accounting principles in the United States, (ii) such amendment or supplement is not adverse to the holders of the Covered Debt, and an officer of GS Group has delivered to the holders of the then-effective series of Covered Debt a written certificate stating that, in his or her determination, such amendment or supplement is not adverse to the holders of the Covered Debt, or (iii) the effect of such amendment or supplement is solely to impose additional restrictions on, or eliminate certain of, the types of securities qualifying as replacement capital securities (other than the securities covered by clause (i) above), and an officer of GS Group has delivered to the holders of the then effective series of Covered Debt a written certificate to that effect. The Replacement Capital Covenant may be terminated if the holders of at least a majority by principal amount of the Covered Debt so agree, or if we no longer have outstanding any long-term indebtedness that qualifies as Covered Debt, without regard to whether such indebtedness is rated by a nationally recognized statistical rating organization.

In addition, any redemption of the Notes prior to the Stock Purchase Date or the Preferred is subject to prior approval of the SEC. Moreover, unless the SEC authorizes us to do otherwise in writing, we will redeem the Notes prior to the Stock Purchase Date or any shares of the Preferred only if they are replaced with other Allowable Capital in accordance with the SEC's CSE Rules — for example, common stock or another series of perpetual non-cumulative preferred stock.

Subject to the limitations described above and the terms of any outstanding debt instruments, and, after the Stock Purchase Date, any preferred stock ranking senior to the Preferred, we or our affiliates may from time to time purchase any outstanding APEX by tender, in the open market or by private agreement.

BOOK-ENTRY SYSTEM

Please note that in this prospectus supplement, references to "holders" mean those who own securities registered in their own names, on the books that we or the depositary maintain for this purpose, and not indirect holders who own beneficial interests in depositary shares registered in street name or issued in book-entry form through The Depositary Trust Company. Please review the special considerations that apply to indirect holders below and in the accompanying prospectus under "Legal Ownership and Book-Entry Issuance". The following discussion supplements and to the extent inconsistent with, supersedes and replaces the description contained in the accompanying prospectus under "Legal Ownership and Book-Entry Issuance".

The Depository Trust Company, which we refer to along with its successors in this capacity as "*DTC*," will act as securities depositary for the APEX. The APEX will be issued only as fully registered securities registered in the name of Cede & Co. (DTC's partnership nominee) or such other name as may be requested by an authorized representative of DTC. One or more fully registered global security certificates, representing the total aggregate number of each series of APEX, will be issued and deposited with DTC and will bear a legend regarding the restrictions on exchanges and registration of transfer referred to below. Immediately prior to the Remarketing Settlement Date or such other time as the Notes may be held by persons other than the Property Trustee, the Collateral Agent and the Custodial Agent, one or more fully registered global security certificates, representing the total aggregate principal amount of Notes, will be issued and deposited with DTC and will bear a legend regarding the restrictions on exchanges and registration of transfer referred to below. Likewise, in the event the Trust is dissolved after the Stock Purchase Date and prior to the redemption of the Preferred, one or more fully registered global security certificates, representing the total aggregate number of shares of the Preferred, or if we issue depositary receipts to evidence the Preferred in such circumstances, the total aggregate number of depositary receipts, will be issued and deposited with DTC and will bear a legend regarding the restrictions on exchanges and registration of transfer referred to below.

Beneficial owners of securities other than DTC or its nominees will not be recognized by the relevant registrar, transfer agent, paying agent or trustee as registered holders of the securities entitled to the benefits of the Trust Agreement and the Guarantee or the Indenture or in the case of the Preferred, entitled to the rights of holders thereof under our restated certificate of incorporation. Beneficial owners that are not participants will be permitted to exercise their rights only indirectly through and according to the procedures of participants and, if applicable, indirect participants.

Ownership of beneficial interests in the global security certificates will be limited to participants or persons that may hold beneficial interests through institutions that have accounts with DTC or its nominee. Ownership of beneficial interests in global security certificates will be shown only on, and the transfer of those ownership interests will be effected only through, records maintained by DTC or its nominee, with respect to participants' interests, or any participant, with respect to interests of persons held by the participant on their behalf. Procedures for exchanges of Normal APEX and Qualifying Treasury Securities for Stripped APEX and Capital APEX and vice versa prior to the Remarketing Settlement Date, the redemption of the Capital APEX in exchange for Junior Subordinated Notes in connection with a successful Remarketing, the exchange of Normal APEX and Qualifying Treasury Securities for Stripped APEX, the disposition of Capital APEX in connection with a successful Remarketing and the Stripped APEX automatically becoming Normal APEX will be governed by arrangements among DTC, participants and persons that may hold beneficial interests through participants designed to permit settlement without the physical movement of certificates. Payments, transfers, deliveries, exchanges, redemptions and other matters relating to beneficial interests in global security certificates may be subject to various policies and procedures adopted by DTC from time to time. None of us, the Collateral Agent, the Custodial Agent, the trustees of the Trust, the Indenture Trustee or the Guarantee Trustee, or any agent for us or any of them, will have any responsibility or liability for any aspect of DTC's or any direct or indirect participant's records relating to, or for payments made on account of, beneficial interests in global security certificates, or

for maintaining, supervising or reviewing any of DTC's records or any direct or indirect participant's records relating to these beneficial ownership interests.

DTC has advised us that it will take any action permitted to be taken by a registered holder of any securities under the Trust Agreement, the Guarantee, the Collateral Agreement, the Indenture or our restated certificate of incorporation, only at the direction of one or more participants to whose accounts with DTC the relevant securities are credited.

The information in this section concerning DTC and its book-entry system has been obtained from sources that we and the trustees of the Trust believe to be accurate, but we assume no responsibility for the accuracy thereof. None of us, the Trust, the trustees of the Trust, the Collateral Agent, the Custodial Agent, any registrar and transfer agent, any paying agent or any agent of any of us or them, will have any responsibility or liability for any aspect of DTC's or any participant's records relating to, or for payments made on account of, beneficial interests in a global security, or for maintaining, supervising or reviewing any records relating to such beneficial interests.

SUPPLEMENTAL U.S. FEDERAL INCOME TAX CONSIDERATIONS

The following discussion summarizes certain of the U.S. federal income tax consequences of the purchase, beneficial ownership and disposition of APEX. This summary deals only with the beneficial owner of an APEX (each, a "*U.S. holder*") that is:

- a citizen or resident of the United States;
- a corporation (or other entity that is treated as a corporation for U.S. federal tax income purposes) created or organized in or under the laws of the United States or any State thereof (including the District of Columbia);
- an estate, the income of which is subject to U.S. federal income taxation regardless of its source; or
- a trust, if a court within the United States is able to exercise primary supervision over its administration, and one or more U.S. persons (as determined for U.S. federal income tax purposes) have the authority to control all of its substantial decisions.

This summary is based on interpretations of the Internal Revenue Code of 1986, as amended (the "*Code*"), regulations issued thereunder, and rulings and decisions currently in effect (or in some cases proposed), all of which are subject to change. Any such change may be applied retroactively and may adversely affect the U.S. federal income tax consequences described herein. This summary addresses only U.S. holders that purchase Normal APEX at initial issuance, and own APEX as capital assets. This summary does not discuss all of the tax consequences that may be relevant to particular investors or to investors subject to special treatment under the U.S. federal income tax laws, such as:

- securities or currency dealers or brokers, or traders in securities electing mark-to-market treatment;
- banks, thrifts, or other financial institutions;
- insurance companies, regulated investment companies or real estate investment trusts;
- small business investment companies or S corporations;
- investors that hold their APEX through a partnership or other entity that is treated as a partnership for U.S. federal income tax purposes;
- investors whose functional currency is not the U.S. dollar;
- retirement plans or other tax-exempt entities, or persons holding the APEX in tax-deferred or tax-advantaged accounts;
- investors holding APEX as part of a "straddle" or a "conversion transaction" for U.S. federal income tax purposes or investors holding APEX that are a hedge or that are hedged against interest rate or currency risks, or as part of some other integrated investment; or
- investors subject to the alternative minimum tax.

This summary also does not address the tax consequences to shareholders or other equity holders in, or beneficiaries of, a holder, or any state, local or foreign tax consequences of the purchase, beneficial ownership or disposition of the APEX. Persons considering the purchase of APEX should consult their own tax advisors concerning the application of U.S. federal income tax laws to their particular situations as well as any consequences of the purchase, beneficial ownership and disposition of APEX arising under the laws of any other taxing jurisdiction.

If you are not a U.S. holder, different U.S. federal income tax consequences will apply to you and you should consult your own tax advisor.

Classification of the Trust

In the opinion of Sullivan & Cromwell LLP, the Trust will not be classified as an association or a publicly traded partnership taxable as a corporation for U.S. federal income tax purposes assuming full compliance with the terms of the Trust Agreement. The Trust intends to treat itself as one or more grantor trusts or agency arrangements. By purchasing an APEX, you will agree to treat the Trust as one or more grantor trusts or agency arrangements. Under this treatment, for U.S. federal income tax purposes, you will be treated as purchasing and owning an undivided beneficial ownership interest in the Contracts, the Notes, the Qualifying Treasury Securities, the U.S. treasury securities purchased with the proceeds of the Remarketing and/or the Preferred, as the case may be, and will be required to take into account your *pro rata* share of all the items of income, gain, loss, or deduction of the Trust corresponding to the series of APEX you own, each as described below. The character of the income included by you as a holder of APEX generally will reflect the character of the Trust's income. In addition, upon a sale, exchange or other taxable disposition of a APEX, you will be treated as having sold, exchanged or disposed of your *pro rata* interest in the Trust assets corresponding to such APEX, and must allocate the proceeds realized from the disposition among such assets in proportion to their respective fair market values at the time of the disposition.

Although the Trust intends to treat itself as one or more grantor trusts or agency arrangements, it is possible that the portion of a Stripped APEX that represents an interest in the Qualifying Treasury Securities could be treated as a partnership for U.S. federal income tax purposes. We do not expect such treatment to materially change your U.S. federal income tax treatment with respect to the APEX. The balance of this summary assumes that the Trust is treated as one or more grantor trusts or agency agreements.

Taxation of a Normal APEX

Each Normal APEX will be treated for U.S. federal income tax purposes as an undivided beneficial ownership interest in (a) the corresponding $1,000 principal amount of Notes and (b) the corresponding 1/100th interest in a Contract, which represents the right to receive Contract Payments and the obligation to purchase one share of the Preferred on the Stock Purchase Date. Consequently, you must allocate your purchase price for the Normal APEX between your beneficial ownership interests in the two components in proportion to their respective fair market values at the time of purchase. This allocation will establish your initial U.S. federal income tax basis in your interest in the underlying Notes and Contracts. We will treat the fair market value of the $1,000 principal amount of Notes corresponding to one Normal APEX as $1,000 and the fair market value of a 1/100th interest in a Contract corresponding to one Normal APEX as $0 at the time of purchase. Holders of Normal APEX, by purchasing a APEX, will be required to agree to this allocation. This allocation is not, however, binding on the Internal Revenue Service (the "*IRS*"). The remainder of this summary assumes that this allocation of the purchase price will be respected for U.S. federal income tax purposes.

Taxation of the Junior Subordinated Notes

Treatment of the Junior Subordinated Notes. The Notes will be treated as our indebtedness for U.S. federal income tax purposes. We intend to treat the Notes as "variable rate debt instruments" that are subject to the Treasury regulations that apply to "reset bonds" and which are issued with no more than a de minimis amount of original issue discount for U.S. federal income tax purposes. Consistent with this treatment, we intend to treat the Notes, solely for purposes of the original issue discount rules of the Code, as if they mature on the date immediately preceding the Remarketing Settlement Date for an amount equal to the Remarketing Value (less accrued and unpaid interest). However, there are no regulations, rulings or other authorities that address the U.S. federal income tax treatment of debt instruments that are substantially similar to the Notes, and therefore the U.S. federal income tax treatment of the Notes under the original issue discount rules is unclear. See "— Possible Alternative Characterizations and Treatments" below.

By purchasing a Normal APEX, you agree to treat the Notes as described above, unless the IRS requires you to treat the Notes differently. The balance of this summary generally assumes that the Notes are treated as described above. However, different treatments are possible. See "— Possible Alternative Characterizations and Treatments" below.

Interest on the Junior Subordinated Notes. Under the treatment of the Notes described above, stated interest on the Notes will be includible in your gross income as ordinary interest income at the time the interest is paid or accrued, in accordance with your regular method of tax accounting. However, if we exercise our right to defer payments of stated interest on the Notes, we intend to treat the Notes as reissued, solely for purposes of certain original issue discount provisions, with original issue discount, and you would generally be required to accrue such original issue discount as ordinary income using a constant yield method prescribed by Treasury regulations. As a result, in that event, the income that you would be required to accrue would exceed the interest payments that you would actually receive.

Tax Basis in Junior Subordinated Notes. Under the treatment described above, your tax basis in the Notes will generally be equal to the portion of the purchase price for the Normal APEX allocated to your interest in the Notes (as described in "— Taxation of a Normal APEX" above). However, if stated interest payments are deferred so that the Notes are deemed to be reissued with original issue discount, your tax basis in the Notes would be increased by the amounts of accrued original issue discount, and decreased by all payments on the Notes after such deemed reissuance.

Sale, Exchange or Other Taxable Disposition of the Junior Subordinated Notes. You will recognize gain or loss on a sale, exchange or other taxable disposition of your interest in the Notes upon the sale or other taxable disposition of your Normal APEX or Capital APEX or upon a successful Remarketing of the Notes. The gain or loss that you recognize will be equal to the difference between the portion of the proceeds allocable to your interest in the Notes (less any accrued and unpaid interest) and your adjusted U.S. federal income tax basis in your interest in your Notes. Selling expenses (including the remarketing fee) incurred by you should reduce the amount of gain or increase the amount of loss you recognize upon a disposition of your interest in the Notes.

Any gain that is recognized by you upon a sale, exchange or other taxable disposition of the Notes generally will be capital gain or loss, which will be long-term capital gain or loss if you held your interest in the Notes (evidenced by your Normal APEX or Capital APEX) for more than one year immediately prior to such disposition. The deductibility of capital losses is subject to limitations.

Possible Alternative Characterizations and Treatments. As mentioned above, there are no regulations, rulings or other authorities that address the U.S. federal income tax treatment of debt instruments that are substantially similar to the Notes, and therefore the U.S. federal income tax treatment of the Notes under the original issue discount rules is unclear and other alternative characterizations and treatments are possible. For example, it is possible that the Notes could be treated as "contingent payment debt instruments." In that event, you would be required to accrue original issue discount income based on the "comparable yield" of the Notes. In general, the comparable yield of the Notes would be the rate at which we would issue a fixed rate debt instrument with terms and conditions similar to the Notes. It is possible that the comparable yield of the Notes could exceed the stated interest rate, in which case you may be required to include in income amounts in excess of the stated interest payments on the Notes. In addition, if the Notes are treated as contingent payment debt instruments, any gain that you would recognize upon a sale, exchange or other taxable disposition of the Notes would generally be treated as ordinary interest income. Alternatively, even if the Notes are not treated as "contingent payment debt instruments," they could be treated as issued with more than a de minimis amount of original issue discount and you could be required to accrue such original issue discount (regardless of your method of accounting) in amounts that exceed stated interest payments on the Notes. You should consult your tax advisor concerning alternative characterizations and treatments of the Notes under the original issue discount rules.

Taxation of the Stock Purchase Contracts

There is no direct authority under current law that addresses the treatment of the Contract Payments, and their treatment is, therefore, unclear. We intend to report the Contract Payments as ordinary taxable income to you. Under this treatment, you should include the Contract Payments in income when received or accrued, in accordance with your regular method of tax accounting. The following discussion assumes that the Contract Payments are so treated. However, other treatments are possible. You should consult your tax advisor concerning the treatment of the Contract Payments.

If we exercise our right to defer any Contract Payments and issue Additional Notes to the Trust in satisfaction of the Contract Payments, we intend to treat such Additional Notes as issued with original issue discount. Assuming such treatment, you should generally accrue original issue discount on the Additional Notes equal to the interest rate on the Additional Notes, regardless of your method of tax accounting and before receipt of that interest.

If you dispose of a Normal APEX or Stripped APEX when the Contracts have positive value, you will generally recognize gain equal to the sale proceeds allocable to the Contracts. If you dispose of a Normal APEX or Stripped APEX when the Contracts have negative value, you should generally recognize loss with respect to the Contracts equal to the negative value of your interest in the Contracts and should be considered to have received additional consideration for your interest in the Notes or Qualifying Treasury Securities, as the case may be, in an amount equal to such negative value. Gain or loss from the disposition of your interest in the Contracts (upon your disposition of Normal APEX or Stripped APEX) generally will be capital gain or loss, and such gain or loss generally will be long-term capital gain or loss if you held your interest in the Contracts (evidenced by your Normal APEX or Stripped APEX) for more than one year at the time of such disposition. The deductibility of capital losses is subject to limitations.

Acquisition and Taxation of the Series E Preferred Stock

Acquisition of Series E Preferred Stock under the Stock Purchase Contracts. On the Stock Purchase Date, the Trust will purchase the Preferred pursuant to the Contracts. You generally will not recognize gain or loss with respect to your Normal APEX or Stripped APEX on the purchase by the Trust of the Preferred under the Contracts. Your aggregate initial U.S. federal income tax basis in your interest in the Preferred received by the Trust under the Contracts generally should equal your interest in the purchase price paid for such Preferred *plus* the amount, if any, of any Contract Payments included in your income but not received. The holding period for the Preferred received under a Contract will commence on the date following the acquisition of such Preferred and, consequently, your holding period in your interest in the Preferred will not include the period you held your Normal APEX or Stripped APEX prior to and including the Stock Purchase Date.

Dividends on the Series E Preferred Stock. Any distribution with respect to the Preferred that we pay out of our current or accumulated earnings and profits (as determined for U.S. federal income tax purposes) will constitute a dividend and will be includible in income by you when received by the Trust after the Stock Purchase Date. Any such dividend will be eligible for the dividends-received deduction if you are an otherwise qualifying corporate U.S. holder that meets the holding period and other requirements for the dividends-received deduction. Dividends paid to non-corporate U.S. holders in taxable years beginning before January 1, 2011 are generally subject to a maximum federal income tax rate of 15% if the holder holds its interest in the Preferred for more than 60 days during the 121-day period beginning 60 days before the ex-dividend date and meets certain other requirements. Distributions in excess of our current and accumulated earnings and profits are treated first as a non-taxable return of capital to the extent of your basis in the Preferred, and then as capital gain.

Redemption of Series E Preferred Stock; Disposition of Normal APEX or Stripped APEX Corresponding to Series E Preferred Stock. Subject to the discussion below regarding certain redemptions, upon a redemption by us of the Preferred or a disposition after the Stock Purchase Date of Normal APEX (or Stripped APEX if then outstanding) corresponding to the Preferred, you generally

will recognize capital gain or loss equal to the difference between the amount realized and your adjusted tax basis in your interest in the Preferred. Your adjusted tax basis in the Preferred at the time of any such redemption or disposition should generally equal your initial tax basis in the Preferred at the time of purchase, reduced by the amount of any cash distributions that are not treated as dividends. Such capital gain or loss generally will be long-term capital gain or loss if you held the Normal APEX or Stripped APEX for more than one year following the Stock Purchase Date. The deductibility of capital losses is subject to limitations.

Under certain circumstances, an amount paid to you in connection with a redemption of the Preferred may be treated as a distribution (taxed in the manner described under "— Dividends on the Series E Preferred Stock" above) as opposed to an amount realized on the redemption of the Preferred if, immediately following the redemption, you own directly or indirectly (taking into account applicable constructive ownership rules) shares of any other class of our stock. If you own (or are deemed to own) shares of any other class of our stock, you should consult your own tax advisor regarding the consequences of receiving a payment in connection with a redemption of the Preferred.

Separation and Recreation of Normal APEX

Exchange of Normal APEX and Qualifying Treasury Securities for Stripped APEX and Capital APEX. You will generally not recognize gain or loss upon an exchange of Normal APEX and Qualifying Treasury Securities for Stripped APEX and Capital APEX. You will continue to take into account items of income or deduction otherwise includible or deductible, respectively, by you with respect to such Qualifying Treasury Securities (as described below) and your interest in the Notes, as well as your interest in the Contracts, and your adjusted tax bases in and your holding period of the Qualifying Treasury Securities and your interest in the Contracts (as evidenced by your Stripped APEX) and your interest in the Notes (as evidenced by your Capital APEX) will not be affected by such delivery and exchange.

Taxation of the Qualifying Treasury Securities. If you hold a Stripped APEX, upon the maturity of the Qualifying Treasury Securities you exchanged for your Stripped APEX, the Trust will purchase replacement Qualifying Treasury Securities. It is expected, and the remainder of this discussion assumes, that the Qualifying Treasury Securities designated for the creation of Stripped APEX, and any Qualifying Treasury Securities purchased as replacement Qualifying Treasury Securities, will have an original term of one year or less and therefore will be treated as short-term obligations. In general, if you are a cash-basis taxpayer, you will not be required to report your allocable share of the excess of the amounts payable on a Qualifying Treasury Security over the purchase price of the Qualifying Treasury Security ("acquisition discount") until the amounts are paid, unless you elect to report the acquisition discount in income as it accrues on a straight line basis or on a constant yield basis. However, if you are a cash-basis taxpayer that does not elect to report the acquisition discount in income currently, you may be required to defer deductions for any interest paid on indebtedness incurred or continued by you to purchase or carry the Stripped APEX in an amount not exceeding the deferred income until the interest on the Qualifying Treasury Securities is paid. If you are an accrual-basis taxpayer, you will be required to report acquisition discount on a Qualifying Treasury Security as it accrues on a straight-line basis or, if you elect, to treat the acquisition discount under a constant yield method.

You will recognize gain or loss on a sale, exchange or other taxable disposition of your interest, if any, in Qualifying Treasury Securities upon the sale or other taxable disposition of your Stripped APEX. The amount of gain or loss recognized will be equal to the difference between the portion of the proceeds allocable to your interest in the Qualifying Treasury Securities and your adjusted U.S. federal income tax basis in your interest in the Qualifying Treasury Securities. Any gain or loss you recognize generally will be short-term capital gain or loss. However, if you are a cash-basis taxpayer that does not elect to report acquisition discount on the Qualifying Treasury Securities as it accrues, gain (if any) recognized by you will be treated as ordinary income to the extent of accrued

acquisition discount on the Qualifying Treasury Securities. The deductibility of capital losses is subject to limitations.

You should generally not have any additional tax consequences upon the distribution of any excess of the proceeds from maturing Qualifying Treasury Securities over the cost of replacing those Qualifying Treasury Securities.

You should consult your own tax advisor regarding your tax treatment in respect of any Qualifying Treasury Securities, and any elections with respect to them.

Recreation of Normal APEX. If you exchange a Stripped APEX and a Capital APEX for a Normal APEX and the pledged Qualifying Treasury Securities, you will generally not recognize gain or loss upon the exchange. You will continue to take into account items of income or deduction otherwise includible or deductible, respectively, by you with respect to such Qualifying Treasury Securities and the corresponding Notes and Contracts, and your adjusted tax bases in and your holding period of the Qualifying Treasury Securities and your interests in the Notes and the Contracts will not be affected by such exchange.

Dissolution of the Trust

Under certain circumstances (including a termination of the Contracts), we may dissolve the Trust and distribute the trust assets to the holders of APEX. A distribution of trust assets (Notes, the Preferred, the interest-bearing deposit or Qualifying Treasury Securities, as the case may be) to you as a holder of APEX upon the dissolution of the Trust will not be a taxable event to you for U.S. federal income tax purposes, and your tax basis in the Notes, Qualifying Treasury Securities, interest-bearing deposit or shares of the Preferred received generally will be the same as your tax basis in your interest in the related trust assets. Your holding period in Trust assets received generally would include your holding period in the related APEX.

If the Contracts terminate, you will recognize a capital loss equal to the amount, if any, of Contract Payments included in your income but not paid at the time of such termination. The deductibility of capital losses is subject to limitations.

Backup Withholding and Information Reporting

In general, you will be subject to backup withholding with respect to payments made on your APEX and the proceeds received from the sale of your APEX unless you are an entity (including a corporation or a tax-exempt entity) that is exempt from backup withholding and, when required, demonstrate this fact or:

- you provide your Taxpayer Identification Number ("*TIN*") (which, if you are an individual, would be your Social Security Number),
- you certify that (i) the TIN you provide is correct, (ii) you are a U.S. person and (iii) you are not subject to backup withholding because (A) you are exempt from backup withholding or (B) you have not been notified by the IRS that you are subject to backup withholding due to underreporting of interest or dividends or (C) you have been notified by the IRS that you are no longer subject to backup withholding, and
- you otherwise comply with the applicable requirements of the backup withholding rules.

In addition, such payments or proceeds received by you if you are not a corporation or tax-exempt organization will generally be subject to information reporting requirements.

Backup withholding is not an additional tax. The amount of any backup withholding from a payment to you will be allowed as a credit against your U.S. federal income tax liability and may entitle you to a refund, *provided* that you furnish the required information to the IRS.

EMPLOYEE RETIREMENT INCOME SECURITY ACT

The following is a summary of certain considerations associated with the purchase and holding of the Normal APEX, Stripped APEX and Capital APEX by employee benefit plans that are subject to Title I of the U.S. Employee Retirement Income Security Act of 1974, as amended ("*ERISA*"), plans, individual retirement accounts and other arrangements that are subject to Section 4975 of the Code or provisions under any federal, state, local, non-U.S. or other laws or regulations that are similar to such provisions of ERISA or the Code (collectively, "*Similar Laws*"), and entities whose underlying assets are considered to include "plan assets" of any such plan, account or arrangement (each, a "*Plan*").

General Fiduciary Matters

ERISA and the Code impose certain duties on persons who are fiduciaries of a Plan subject to Title I of ERISA or Section 4975 of the Code (an "*ERISA Plan*"). In considering an investment in the Normal APEX, or the exchange of Normal APEX for Stripped APEX and Capital APEX, each fiduciary of a Plan should consider the fiduciary standards of ERISA, the Code or other applicable Similar Law in the context of the Plan's particular circumstances. Among other factors, the fiduciary should consider whether the investment is consistent with the documents and instruments governing the Plan and whether the investment would satisfy the prudence, diversification, delegation of control and prohibited transaction provisions of ERISA, the Code or any applicable Similar Law.

Prohibited Transaction Issues

Section 406 of ERISA and Section 4975 of the Code, as applicable, prohibit ERISA Plans from engaging in specified transactions (prohibited transactions) involving "plan assets" with persons or entities who are "parties in interest," within the meaning of ERISA, or "disqualified persons," within the meaning of Section 4975 of the Code, unless an exemption is available. We, the trustees of the Trust, the Collateral Agent or GS Group may be considered a party in interest or disqualified person with respect to one or more ERISA Plans. A party in interest or disqualified person who engages in a non-exempt prohibited transaction may be subject to excise taxes and other penalties and liabilities under ERISA and the Code. In addition, the fiduciary of the ERISA Plan that engages in such a non-exempt prohibited transaction may be subject to penalties and liabilities under ERISA and the Code. Employee benefit plans that are governmental plans (as defined in Section 3(32) of ERISA and Section 414(d) of the Code), certain church plans (as defined in Section 3(33) of ERISA and Section 414(e) of the Code with respect to which the election provided by Section 410(d) of the Code has not been made) and certain foreign plans (as described in Section 4(b)(4) of ERISA) are not subject to the requirements of ERISA or Section 4975 of the Code but may be subject to Similar Laws.

Whether or not the assets of the Trust are considered to include "plan assets" of ERISA Plans investing in the APEX, as described below, the acquisition and holding of the Normal APEX, Stripped APEX or Capital APEX with "plan assets" of an ERISA Plan with respect to which we, the trustees, the Collateral Agent or GS Group is considered a party in interest or a disqualified person could result in a direct or indirect prohibited transaction, unless the investment is acquired and is held in accordance with an applicable statutory, regulatory or administrative exemption. The Department of Labor has issued a number of prohibited transaction class exemptions, or "*PTCEs*," that may apply to the purchase and holding of APEX. These class exemptions include PTCE 84-14 for certain transactions determined by independent qualified professional asset managers, PTCE 90-1 for certain transactions involving insurance company pooled separate accounts, PTCE 91-38 for certain transactions involving bank collective investment funds, PTCE 95-60 for certain transactions involving life insurance company general accounts, and PTCE 96-23 for certain transactions determined by in-house asset managers. In addition, ERISA Section 408(b)(17) and Section 4975(d)(20) of the Code provide relief from the prohibited transaction provisions of ERISA and the Code for certain transactions, provided that neither the party in interest nor any of its affiliates (directly or indirectly) have or exercise any discretionary authority or control or render any investment advice with respect to

the assets of the ERISA Plan involved in the transaction and provided further that the ERISA Plan receives no less, nor pays no more than adequate consideration in connection with the transaction.

Plan Asset Considerations

The U.S. Department of Labor has issued a regulation with regard to the circumstances in which the underlying assets of an entity in which an ERISA Plan acquires an equity interest will be deemed to be plan assets (the "*Plan Asset Regulation*"). Under this regulation, as modified by Section 3(42) of ERISA, the assets of the Trust would be deemed to be "plan assets" of an ERISA Plan whose assets were used to acquire the Normal APEX, Stripped APEX or Capital APEX, if the APEX were considered to be equity interests in the Trust and no exception were applicable under the Plan Asset Regulation. The Plan Asset Regulation defines an "equity interest" as any interest in an entity other than an instrument that is treated as indebtedness under applicable local law and which has no substantial equity features. Although it is not free from doubt, the Normal APEX, Stripped APEX and Capital APEX should be treated as equity interests in the Trust for purposes of the Plan Asset Regulation.

An exception to plan asset status is available, however, under the Plan Asset Regulation in the case of a class of equity interests that are (i) widely held, i.e., held by 100 or more investors who are independent of the issuer and each other, (ii) freely transferable, and (iii) either (a) part of a class of securities registered under Section 12(b) or 12(g) of the Exchange Act, or (b) sold as part of an offering of securities to the public pursuant to an effective registration statement under the Securities Act of 1933 and such class is registered under the Exchange Act within 120 days after the end of the fiscal year of the issuer during which the offering of such securities to the public occurred (the "*Publicly Offered Securities Exception*"). Although no assurance can be given, the underwriters believe that the Publicly Offered Securities Exception will be applicable to the Normal APEX offered hereby. Accordingly, the assets of the Trust should not be treated as the assets of any ERISA Plan that holds the Normal APEX.

It is not clear, however, that the Publicly Offered Securities Exception will be applicable to Stripped APEX or Capital APEX that an ERISA Plan might acquire in exchange for Normal APEX, because the Stripped APEX or the Capital APEX may not meet the requirement that they be widely held. Moreover, no assurance can be given that any other exception to plan asset status under the Plan Asset Regulation (including the exception applicable if equity participation by benefit plan investors is not significant) will be applicable to the Stripped APEX or the Capital APEX. Accordingly, it is possible that any assets beneficially owned by the Trust (i.e., the Contract, any U.S. treasury securities, the Notes and, after the Stock Purchase Date, the Preferred) could be treated proportionately as plan assets of any ERISA Plan holding Stripped APEX or Capital APEX.

If the assets of the Trust were deemed to be "plan assets" under the Plan Asset Regulation, this would result, among other things, in the application of the prudence and other fiduciary responsibility standards of ERISA and the Code, as applicable, to transactions engaged in by the Trust and the possibility that certain transactions engaged in by the Trust could constitute prohibited transactions under ERISA and the Code. We have no assurance that any exemption to such a prohibited transaction will be available. In order to reduce the likelihood of any such prohibited transaction, any Plan that acquires Normal APEX, Stripped APEX or Capital APEX will be deemed to have directed the Trust to invest in the Contract, U.S. treasury securities, the Preferred and/or Notes, as applicable, and to have approved any rights retained by the Trust with respect to matters affecting the APEX as part of its investment decision. The Trust, its affiliates, and their respective representatives will not consider themselves fiduciaries with respect to any purchaser or holder of the APEX in respect of the exercise of any such rights of the Trust.

Representation

Based on the foregoing, any person who acquires or holds Normal APEX, Stripped APEX or Capital APEX will be deemed to have represented and warranted by its acquisition and holding thereof that either (A) it is not a Plan and it is not acquiring the Normal, Stripped or Capital APEX, as applicable, on behalf of or with "plan assets" of any Plan or (B) its acquisition and holding of the Normal, Stripped or Capital APEX, as applicable, (i) will not result in a non-exempt prohibited transaction under Section 406 of ERISA or Section 4975 of the Code or a violation of any Similar Law, (ii) the Plan will receive no less and pay no more than "adequate consideration" (within the meaning of Section 408(b)(17) of ERISA and Section 4975(f)(10) of the Code) in connection with the acquisition and holding of the APEX, (iii) neither GS Group nor any of its affiliates is a "fiduciary" (within the meaning of Section 3(21) of ERISA) with respect to the acquirer or holder in connection with such person's acquisition, disposition or holding of the APEX, or as a result of any exercise by GS Group or any of its affiliates of any rights in connection with the APEX, and no advice provided by GS Group or any of its affiliates has formed a primary basis for any investment decision by or on behalf of such acquirer or holder in connection with the APEX and the transactions contemplated with respect to the APEX.

Due to the complexity of these rules and the penalties that may be imposed upon persons involved in non-exempt prohibited transactions, it is particularly important that fiduciaries or other persons considering the purchase or acquisition of Normal APEX, Stripped APEX or Capital APEX, on behalf of or with "plan assets" of any Plan consult with their counsel regarding the potential applicability of ERISA, Section 4975 of the Code or any Similar Laws to such investment and the availability of exemptive relief.

VALIDITY OF SECURITIES

The validity of the APEX will be passed upon for GS Group by Richards, Layton & Finger, P.A., Wilmington, Delaware. The validity of the Notes, the Guarantee and the Preferred will be passed upon for the underwriters by Sullivan & Cromwell LLP, New York, New York. Sullivan & Cromwell LLP has in the past represented and continues to represent GS Group on a regular basis and in a variety of matters, including offerings of our common stock, preferred stock and debt securities. Sullivan & Cromwell LLP also performed services for GS Group in connection with the offering of the securities described in this prospectus supplement.

EXPERTS

The financial statements, financial statement schedule, and management's assessment of the effectiveness of internal control over financial reporting (which is included in Management's Report on Internal Control over Financial Reporting) of Goldman Sachs incorporated herein by reference to the Annual Report on Form 10-K for the fiscal year ended November 24, 2006 have been so incorporated in reliance on the report of PricewaterhouseCoopers LLP, an independent registered public accounting firm, given on the authority of said firm as experts in auditing and accounting.

The historical income statement, balance sheet and common share data set forth in "Selected Financial Data" for each of the five fiscal years in the period ended November 24, 2006 incorporated by reference in the accompanying prospectus have been so incorporated in reliance on the report of PricewaterhouseCoopers LLP, an independent registered public accounting firm, given on the authority of said firm as experts in auditing and accounting.

With respect to the unaudited condensed consolidated financial statements of Goldman Sachs as of and for the three months ended February 23, 2007 and for the three months ended February 24, 2006 incorporated by reference in the accompanying prospectus, PricewaterhouseCoopers LLP reported that they have applied limited procedures in accordance with professional standards for a review of such information. However, their report dated March 26, 2007 incorporated by reference herein states that they did not audit and they do not express an opinion on the unaudited condensed consolidated financial statements. Accordingly, the degree of reliance on their reports on such information should be restricted in light of the limited nature of the review procedure applied. PricewaterhouseCoopers LLP is not subject to the liability provision of Section 11 of the U.S. Securities Act of 1933 for their reports on the unaudited condensed consolidated financial statements because the reports are not "reports" or a "part" of the registration statements prepared or certified by PricewaterhouseCoopers LLP within the meaning of Sections 7 and 11 of the Securities Act of 1933.

UNDERWRITING

GS Group, Goldman Sachs Capital II and the underwriters named below have entered into an underwriting agreement with respect to the Normal APEX being offered in this prospectus supplement. Subject to certain conditions, the underwriters have agreed to purchase the respective number of Normal APEX, each representing a $1,000 liquidation amount, indicated in the following table. Goldman, Sachs & Co. is the representative of the underwriters.

Underwriters	Number of Normal APEX
Goldman, Sachs & Co.	1,487,500
BNP Paribas Securities Corp.	17,500
BNY Capital Markets, Inc.	17,500
CastleOak Securities, L.P.	8,750
Citigroup Global Markets Inc.	17,500
Daiwa Securities SMBC Europe Limited	17,500
Guzman & Company	8,750
HSBC Securities (USA) Inc.	17,500
HVB Capital Markets, Inc.	17,500
J.P. Morgan Securities Inc.	17,500
Samuel A. Ramirez & Company, Inc.	8,750
Santander Investment Securities Inc.	17,500
SunTrust Capital Markets, Inc.	17,500
UTENDAHL CAPITAL PARTNERS, L.P.	8,750
Wachovia Capital Markets, LLC	52,500
Wells Fargo Securities, LLC	17,500
Total	1,750,000

The underwriters are committed to take and pay for all of the Normal APEX being offered, if any are taken.

In view of the fact that the proceeds from the sale of the Normal APEX and Trust Common Securities will be used to purchase the Notes issued by us, the underwriting agreement provides that we will pay as compensation for the underwriters' arranging the investment therein of such proceeds the following amounts for the account of the underwriters. The following table shows the per Normal APEX and total commissions to be paid to the underwriters by GS Group.

	Paid by GS Group
Per Normal APEX	$ 15
Total	$26,250,000

Normal APEX sold by the underwriters to the public will initially be offered at the initial public offering price set forth on the cover of this prospectus supplement. Any Normal APEX sold by the underwriters to securities dealers may result in such securities dealers receiving a commission of up to $12 per Normal APEX. Any such securities dealers may resell any Normal APEX purchased from the underwriters to certain other brokers or dealers who may receive a commission of up to $5 per Normal APEX. If all the Normal APEX are not sold at the initial public offering price, the underwriters may change the offering price and the other selling terms.

The underwriters intend to offer the Normal APEX for sale primarily in the United States either directly or through affiliates or other dealers acting as selling agents. The underwriters may also offer

the Normal APEX for sale outside the United States either directly or through affiliates or other dealers acting as selling agents.

Prior to this offering, there has been no public market for the Normal APEX being offered. We do not expect that there will be any separate public trading market for the Notes or the Preferred except as represented by the Normal APEX. We intend to apply to list the Normal APEX on the New York Stock Exchange under the symbol "GS/PE." If approved, we expect trading of the Normal APEX on the New York Stock Exchange to begin within the 30-day period after the original issue date. In order to meet one of the requirements for listing the Normal APEX on the New York Stock Exchange, the underwriters have undertaken to sell lots of 100 or more Normal APEX to a minimum of 100 beneficial owners. Neither the Stripped APEX nor the Capital APEX will initially be listed. However, if the Stripped APEX or the Capital APEX are separately traded to a sufficient extent so that applicable exchange listing requirements are met, we may list the Stripped APEX or the Capital APEX on the same exchange as the Normal APEX are then listed, including, if applicable, the New York Stock Exchange, though we are under no obligation to do so.

GS Group has been advised by Goldman, Sachs & Co. that Goldman, Sachs & Co. intends to make a market in the Normal APEX prior to commencement of trading on the New York Stock Exchange. Other affiliates of GS Group may also do so. Neither Goldman, Sachs & Co. nor any other affiliate, however, is obligated to do so and any of them may discontinue market-making at any time without notice. No assurance can be given as to the liquidity or the trading market for the Normal APEX or the Stripped APEX or the Capital APEX.

In connection with the offering, the underwriters may purchase and sell Normal APEX in the open market. These transactions may include short sales, stabilizing transactions and purchases to cover positions created by short sales. Short sales involve the sale by the underwriters of a greater number of Normal APEX than they are required to purchase in the offering. Stabilizing transactions consist of certain bids or purchases of the Normal APEX made for the purpose of preventing or retarding a decline in the market price of the Normal APEX while the offering is in process.

In connection with the offering, the underwriters may purchase and sell the Normal APEX in the open market. These transactions may include short sales, stabilizing transactions and purchases to cover positions created by short sales. Short sales involve the sale by the underwriters of a greater number of depositary shares than they are required to purchase in the offering. "Covered" short sales are sales made in an amount not greater than the underwriters' option to purchase additional depositary shares from us in the offering. The underwriters may close out any covered short position by either exercising their option to purchase additional Normal APEX or purchasing Normal APEX in the open market. In determining the source of depositary shares to close out the covered short position, the underwriters will consider, among other things, the price of the Normal APEX available for purchase in the open market as compared to the price at which they may purchase additional Normal APEX pursuant to the option granted to them. "Naked" short sales are any sales in excess of such option. The underwriters must close out any naked short position by purchasing the Normal APEX in the open market. A naked short position is more likely to be created if the underwriters are concerned that there may be downward pressure on the price of the Normal APEX in the open market after pricing that could adversely affect investors who purchase in the offering. Stabilizing transactions consist of various bids for or purchases of the Normal APEX made by the underwriters in the open market prior to the completion of the offering.

Purchases to cover a short position and stabilizing transactions may have the effect of preventing or retarding a decline in the market price of the Normal APEX. As a result, the price of the Normal APEX may be higher than the price that otherwise might exist in the open market. If these activities are commenced, they may be discontinued at any time. These transactions may be effected on the NYSE, in the over-the-counter market or otherwise.

It is expected that delivery of the Normal APEX will be made against payment therefor on or about the date specified on the cover page of this prospectus supplement, which is the fifth business day following the date hereof. Under Rule 15c6-1 of the SEC under the Exchange Act, trades in the secondary market generally are required to settle in three business days, unless the parties to any such trade expressly agree otherwise. Accordingly, purchasers who wish to trade Normal APEX on any date prior to the third business day before delivery will be required, by virtue of the fact that the Normal APEX initially will settle on the fifth business day following the day of pricing ("T+5"), to specify an alternate settlement cycle at the time of any such trade to prevent a failed settlement and should consult their own advisor.

Please note that the information about the original issue date, original issue price, underwriting commissions and proceeds to us on the front cover page relates only to the initial sale of the Normal APEX. If you have purchased a Normal APEX, Stripped APEX and Capital APEX in market-making transactions after the initial sale of Normal APEX, information about the price and date of sale to you will be provided in a separate confirmation of sale.

Each of the underwriters has represented and agreed that:

(a) it has only communicated or caused to be communicated and will only communicate or cause to be communicated an invitation or inducement to engage in investment activity (within the meaning of Section 21 of the Financial Services and Markets Act 2000 (the "*FSMA*")) received by it in connection with the issue or sale of the Normal APEX in circumstances in which Section 21(1) of the FSMA does not apply to GS Group; and

(b) it has complied and will comply with all applicable provisions of the FSMA with respect to anything done by it in relation to the Normal APEX in, from or otherwise involving the United Kingdom.

In relation to each Member State of the European Economic Area which has implemented the Prospectus Directive (each a "*Relevant Member State*"), each underwriter has represented and agreed that with effect from and including the date on which the Prospectus Directive is implemented in that Relevant Member State (the "*Relevant Implementation Date*") it has not made and will not make an offer of Normal APEX to the public in that Relevant Member State prior to the publication of a prospectus in relation to the Normal APEX which has been approved by the competent authority in that Relevant Member State or, where appropriate, approved in another Relevant Member State and notified to the competent authority in that Relevant Member State, all in accordance with the Prospectus Directive, except that it may, with effect from and including the Relevant Implementation Date, make an offer of Normal APEX to the public in that Relevant Member State at any time:

- to legal entities which are authorized or regulated to operate in the financial markets or if not so authorized or regulated, whose corporate purpose is solely to invest in securities;
- to any legal entity which has two or more of (1) an average of at least 250 employees during the last financial year; (2) a total balance sheet of more than €43,000,000 and (3) an annual net turnover of more than € 50,000,000, as shown in its last annual or consolidated accounts; or
- in any other circumstances which do not require the publication by GS Group of a prospectus pursuant to Article 3 of the Prospectus Directive.

For the purposes of this provision, the expression an "offer of Normal APEX to the public" in relation to any Normal APEX in any Relevant Member State means the communication in any form and by any means of sufficient information on the terms of the offer and the Normal APEX to be offered so as to enable an investor to decide to purchase or subscribe the Normal APEX, as the same may be varied in that Relevant Member State by any measure implementing the Prospectus Directive in that Relevant Member State, and the expression "*Prospectus Directive*" means Directive 2003/71/EC and includes any relevant implementing measure in each Relevant Member State.

The Normal APEX may not be offered or sold by means of any document other than (i) in circumstances which do not constitute an offer to the public within the meaning of the Companies Ordinance (Cap. 32, Laws of Hong Kong), or (ii) to "professional investors" within the meaning of the Securities and Futures Ordinance (Cap. 571, Laws of Hong Kong) and any rules made thereunder, or (iii) in other circumstances which do not result in the document being a "prospectus" within the meaning of the Companies Ordinance (Cap. 32, Laws of Hong Kong), and no advertisement, invitation or document relating to the Normal APEX may be issued or may be in the possession of any person for the purpose of issue (in each case whether in Hong Kong or elsewhere), which is directed at, or the contents of which are likely to be accessed or read by, the public in Hong Kong (except if permitted to do so under the laws of Hong Kong) other than with respect to Normal APEX which are or are intended to be disposed of only to persons outside Hong Kong or only to "professional investors" within the meaning of the Securities and Futures Ordinance (Cap. 571, Laws of Hong Kong) and any rules made thereunder.

This prospectus supplement has not been registered as a prospectus with the Monetary Authority of Singapore. Accordingly, this prospectus supplement and any other document or material in connection with the offer or sale, or invitation for subscription or purchase, of the Normal APEX may not be circulated or distributed, nor may the Normal APEX be offered or sold, or be made the subject of an invitation for subscription or purchase, whether directly or indirectly, to persons in Singapore other than (i) to an institutional investor under Section 274 of the Securities and Futures Act, Chapter 289 of Singapore (the "*SFA*"), (ii) to a relevant person, or any person pursuant to Section 275(1A), and in accordance with the conditions, specified in Section 275 of the SFA or (iii) otherwise pursuant to, and in accordance with the conditions of, any other applicable provision of the SFA.

Where the Normal APEX are subscribed or purchased under Section 275 by a relevant person which is: (a) a corporation (which is not an accredited investor), the sole business of which is to hold investments and the entire share capital of which is owned by one or more individuals, each of whom is an accredited investor; or (b) a trust (where the trustee is not an accredited investor) whose sole purpose is to hold investments and each beneficiary is an accredited investor, shares, debentures and units of shares and debentures of that corporation or the beneficiaries' rights and interest in that trust shall not be transferable for six months after that corporation or that trust has acquired the Normal APEX under Section 275 except: (1) to an institutional investor under Section 274 of the SFA or to a relevant person, or any person pursuant to Section 275(1A), and in accordance with the conditions, specified in Section 275 of the SFA; (2) where no consideration is given for the transfer; or (3) by operation of law.

The Normal APEX have not been and will not be registered under the Securities and Exchange Law of Japan (the Securities and Exchange Law) and each underwriter has agreed that it will not offer or sell any Normal APEX, directly or indirectly, in Japan or to, or for the benefit of, any resident of Japan (which term as used herein means any person resident in Japan, including any corporation or other entity organized under the laws of Japan), or to others for re-offering or resale, directly or indirectly, in Japan or to a resident of Japan, except pursuant to an exemption from the registration requirements of, and otherwise in compliance with, the Securities and Exchange Law and any other applicable laws, regulations and ministerial guidelines of Japan.

The offering of the Normal APEX is being made in compliance with Conduct Rule 2810 of the NASD. Under Rule 2810, none of the named underwriters is permitted to sell Normal APEX in this offering to an account over which it exercises discretionary authority without the prior written approval of the customer to which the account relates.

GS Group estimates that its share of the total offering expenses, excluding underwriting commissions, will be approximately $1,350,000.

GS Group has agreed to indemnify the several underwriters against certain liabilities, including liabilities under the Securities Act of 1933.

Certain of the underwriters and their affiliates have in the past provided, and may in the future from time to time provide, investment banking and general financing and banking services to GS Group and its affiliates, for which they have in the past received, and may in the future receive, customary fees. GS Group and its affiliates have in the past provided, and may in the future from time to time provide, similar services to the underwriters and their affiliates on customary terms and for customary fees.

INDEX OF DEFINED TERMS

The Goldman Sachs Group, Inc.

Debt Securities
Warrants
Purchase Contracts
Units
Preferred Stock
Depositary Shares
of
The Goldman Sachs Group, Inc.

Capital Securities
of
Goldman Sachs Capital II
Goldman Sachs Capital III
Goldman Sachs Capital IV
Goldman Sachs Capital V
Goldman Sachs Capital VI
Fully and unconditionally
guaranteed as described herein by
The Goldman Sachs Group, Inc.

The Goldman Sachs Group, Inc. from time to time may offer to sell debt securities, warrants, purchase contracts and preferred stock, either separately or represented by depositary shares, as well as units comprised of these securities or securities of third parties. The debt securities, warrants, purchase contracts and preferred stock may be convertible into or exercisable or exchangeable for common or preferred stock or other securities of Goldman Sachs or debt or equity securities of one or more other entities. The common stock of Goldman Sachs is listed on the New York Stock Exchange and trades under the ticker symbol "GS".

Goldman Sachs Capital II, Goldman Sachs Capital III, Goldman Sachs Capital IV, Goldman Sachs Capital V and Goldman Sachs Capital VI (each trust is referred to as an "Issuer Trust" and together as the "Issuer Trusts") may offer and sell capital securities, in one or more offerings. Capital securities are preferred securities representing preferred beneficial interests in the applicable Issuer Trust.

Goldman Sachs may offer and sell these securities to or through one or more underwriters, dealers and agents, including the firm named below, or directly to purchasers, on a continuous or delayed basis.

This prospectus describes some of the general terms that may apply to these securities and the general manner in which they may be offered. The specific terms of any securities to be offered, and the specific manner in which they may be offered, will be described in a supplement to this prospectus.

Neither the Securities and Exchange Commission nor any other regulatory body has approved or disapproved of these securities or passed upon the accuracy or adequacy of this prospectus. Any representation to the contrary is a criminal offense.

Goldman Sachs may use this prospectus in the initial sale of these securities. In addition, Goldman, Sachs & Co. or any other affiliate of Goldman Sachs may use this prospectus in a market-making transaction in any of these or similar securities after its initial sale. ***Unless Goldman Sachs or its agent informs the purchaser otherwise in the confirmation of sale, this prospectus is being used in a market-making transaction.***

Goldman, Sachs & Co.

Prospectus dated December 5, 2006.

AVAILABLE INFORMATION

The Goldman Sachs Group, Inc. is required to file annual, quarterly and current reports, proxy statements and other information with the SEC. You may read and copy any documents filed by us at the SEC's public reference room at 100 F Street, N.E., Washington, D.C. 20549. Please call the SEC at 1-800-SEC-0330 for further information on the public reference room. Our filings with the SEC are also available to the public through the SEC's Internet site at http://www.sec.gov and through the New York Stock Exchange, 20 Broad Street, New York, New York 10005, on which our common stock is listed.

We have filed registration statements on Form S-3 with the SEC relating to the securities covered by this prospectus. This prospectus is a part of the registration statements and does not contain all of the information in the registration statements. Whenever a reference is made in this prospectus to a contract or other document of Goldman Sachs, please be aware that the reference is only a summary and that you should refer to the exhibits that are a part of the registration statements for a copy of the contract or other document. You may review a copy of the registration statements at the SEC's public reference room in Washington, D.C., as well as through the SEC's Internet site.

The SEC's rules allow us to "incorporate by reference" information into this prospectus. This means that we can disclose important information to you by referring you to another document. Any information referred to in this way is considered part of this prospectus from the date we file that document. Any reports filed by us with the SEC after the date of this prospectus and before the date that the offering of the securities by means of this prospectus is terminated will automatically update and, where applicable, supersede any information contained in this prospectus or incorporated by reference in this prospectus.

The Goldman Sachs Group, Inc. incorporates by reference into this prospectus the following documents or information filed with the SEC (other than, in each case, documents or information deemed to have been furnished and not filed in accordance with SEC rules):

(1) Annual Report on Form 10-K for the fiscal year ended November 25, 2005 (File No. 001-14965);

(2) Quarterly Report on Form 10-Q for the fiscal quarter ended February 24, 2006 (File No. 001-14965);

(3) Quarterly Report on Form 10-Q for the fiscal quarter ended May 26, 2006 (File No. 001-14965);

(4) Quarterly Report on Form 10-Q for the fiscal quarter ended August 25, 2006 (File No. 001-14965);

(5) Current Report on Form 8-K, dated and filed on December 9, 2005 (File No. 001-14965);

(6) Current Report on Form 8-K, dated December 13, 2005 and filed on December 15, 2005 (File No. 001-14965);

(7) Current Report on Form 8-K, dated and filed on January 27, 2006 (File No. 001-14965);

(8) Current Report on Form 8-K, dated and filed on March 14, 2006 (File No. 001-14965);

(9) Current Report on Form 8-K, dated May 23, 2006 and filed on May 24, 2006 (File No. 001-14965);

(10) Current Report on Form 8-K, dated May 30, 2006 and filed on June 2, 2006 (File No. 001-14965);

(11) Current Report on Form 8-K, dated and filed on June 13, 2006 (File No. 001-14965);

(12) Current Report on Form 8-K, dated and filed on June 19, 2006 (File No. 001-14965);

(13) Current Report on Form 8-K, dated and filed on September 12, 2006 (File No. 001-14965);

(14) Current Report on Form 8-K, dated November 10, 2006 and filed on November 13, 2006 (File No. 001-14965);

(15) Current Report on Form 8-K, dated November 28, 2006 and filed on December 4, 2006 (File No. 001-14965);

(16) The description of common stock contained in the Registration Statement on Form 8-A, dated April 27, 1999 (File No. 001-14965), of The Goldman Sachs Group, Inc., filed with the SEC under Section 12(b) of the Securities Exchange Act of 1934; and

(17) All documents filed by The Goldman Sachs Group, Inc. under Sections 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934 on or after the date of this prospectus and before the termination of this offering.

We will provide without charge to each person, including any beneficial owner, to whom this prospectus is delivered, upon his or her written or oral request, a copy of any or all documents referred to above which have been or may be incorporated by reference into this prospectus excluding exhibits to those documents unless they are specifically incorporated by reference into those documents. You can request those documents from Investor Relations, 85 Broad Street, New York, New York 10004, telephone (212) 902-0300.

No separate financial statements of any Issuer Trust are included in this prospectus. The Goldman Sachs Group, Inc. and the Issuer Trusts do not consider that such financial statements would be material to holders of the capital securities because each Issuer Trust is a special purpose entity, has no operating history or independent operations and is not engaged in and does not propose to engage in any activity other than holding as trust assets the corresponding subordinated debt securities (as defined under the heading “The Issuer Trusts”) of The Goldman Sachs Group, Inc. and issuing the trust securities. Furthermore, taken together, The Goldman Sachs Group, Inc.’s obligations under each series of corresponding subordinated debt securities, the subordinated debt indenture under which the corresponding subordinated debt securities will be issued, the related trust agreement, the related expense agreement and the related guarantee provide, in the aggregate, a full, irrevocable and unconditional guarantee of payments of distributions and other amounts due on the related capital securities of an Issuer Trust. For a more detailed discussion, see “The Issuer Trusts”, “Description of Capital Securities and Related Instruments”, “Description of Capital Securities and Related Instruments — Corresponding Subordinated Debt Securities” and “Description of Capital Securities and Related Instruments — Guarantees and Expense Agreements” below. In addition, The Goldman Sachs Group, Inc. does not expect any of the Issuer Trusts to file reports under the Exchange Act with the SEC.

When we refer to “Goldman Sachs” or the “Firm” in this prospectus, we mean The Goldman Sachs Group, Inc., together with its consolidated subsidiaries and affiliates.

PROSPECTUS SUMMARY

This summary highlights information contained elsewhere in this prospectus or incorporated by reference into this prospectus as further described above under "Available Information". This summary does not contain all the information that you should consider before investing in the securities being offered by this prospectus. You should carefully read the entire prospectus, the documents incorporated by reference into this prospectus and the prospectus supplement relating to the securities that you propose to buy, especially any description of investment risks that we may include in the prospectus supplement.

Goldman Sachs

Goldman Sachs is a leading global investment banking, securities and investment management firm that provides a wide range of services worldwide to a substantial and diversified client base that includes corporations, financial institutions, governments and high-net-worth individuals. Founded in 1869, we are one of the oldest and largest investment banking firms. Our headquarters are located at 85 Broad Street, New York, New York 10004, telephone (212) 902-1000, and we maintain offices in London, Frankfurt, Tokyo, Hong Kong and other major financial centers around the world.

The Issuer Trusts

Each Issuer Trust is a Delaware statutory business trust created solely for the purpose of issuing capital securities to investors and trust common securities to us and investing the proceeds in an equivalent amount of our subordinated debt securities. The corresponding subordinated debt securities will be the sole assets of each Issuer Trust.

The Securities We Are Offering

We may offer any of the following securities from time to time:

- debt securities;
- warrants;
- purchase contracts;
- units, comprised of one or more debt securities, warrants, purchase contracts, shares of preferred stock, depositary shares and capital securities described in this prospectus, as well as debt or equity securities of third parties, in any combination; and
- preferred stock, either directly or represented by depositary shares.

In addition, the Issuer Trusts may offer capital securities, and we may offer our guarantees with respect to such capital securities, from time to time.

When we use the term "securities" in this prospectus, we mean any of the securities we or the Issuer Trusts may offer with this prospectus, unless we say otherwise. This prospectus, including the following summary, describes the general terms that may apply to the securities; the specific terms of any particular securities that we or the Issuer Trusts may offer will be described in a separate supplement to this prospectus.

Debt Securities

Our debt securities may be senior or subordinated in right of payment. For any particular debt securities we offer, the applicable prospectus supplement will describe the specific designation, the aggregate principal or face amount and the purchase price; the ranking, whether senior or subordinated; the stated maturity; the redemption terms, if any; the rate or manner of calculating the rate and the payment dates for interest, if any; the amount or manner of calculating the amount payable at

maturity and whether that amount may be paid by delivering cash, securities or other property; the terms on which the debt securities may be convertible into or exercisable or exchangeable for common stock or other securities of The Goldman Sachs Group, Inc. or any other entity, if any; and any other specific terms. We will issue the senior and subordinated debt securities under separate debt indentures between us and The Bank of New York, as trustee.

Warrants

We may offer two types of warrants:

- warrants to purchase our debt securities; and
- warrants to purchase or sell, or whose cash value is determined by reference to the performance, level or value of, one or more of the following:
  - — securities of one or more issuers, including our common or preferred stock or other securities described in this prospectus or debt or equity securities of third parties;
  - — one or more currencies;
  - — one or more commodities;
  - — any other financial, economic or other measure or instrument, including the occurrence or non-occurrence of any event or circumstance; and
  - — one or more indices or baskets of the items described above.

For any particular warrants we offer, the applicable prospectus supplement will describe the underlying property; the expiration date; the exercise price or the manner of determining the exercise price; the amount and kind, or the manner of determining the amount and kind, of property to be delivered by you or us upon exercise; and any other specific terms. We may issue the warrants under the warrant indenture between us and The Bank of New York, as trustee, or under warrant agreements between us and one or more warrant agents.

Purchase Contracts

We may offer purchase contracts for the purchase or sale of, or whose cash value is determined by reference to the performance, level or value of, one or more of the following:

- securities of one or more issuers, including our common or preferred stock or other securities described in this prospectus and debt or equity securities of third parties;
- one or more currencies;
- one or more commodities;
- any other financial, economic or other measure or instrument, including the occurrence or non-occurrence of any event or circumstance; and
- one or more indices or baskets of the items described above.

For any particular purchase contracts we offer, the applicable prospectus supplement will describe the underlying property; the settlement date; the purchase price or manner of determining the purchase price and whether it must be paid when the purchase contract is issued or at a later date; the amount and kind, or the manner of determining the amount and kind, of property to be delivered at settlement; whether the holder will pledge property to secure the performance of any obligations the holder may have under the purchase contract; and any other specific terms. We may issue purchase contracts under an indenture described above or a unit agreement described below.

Units

We may offer units, comprised of one or more debt securities, warrants, purchase contracts, shares of preferred stock, depositary shares and capital securities described in this prospectus, as well as debt or equity securities of third parties, in any combination. For any particular units we offer, the applicable prospectus supplement will describe the particular securities comprising each unit; the terms on which those securities will be separable, if any; whether the holder will pledge property to secure the performance of any obligations the holder may have under the unit; and any other specific terms of the units. We may issue the units under unit agreements between us and one or more unit agents.

Preferred Stock and Depositary Shares

We may offer our preferred stock, par value $0.01 per share, in one or more series. For any particular series we offer, the applicable prospectus supplement will describe the specific designation; the aggregate number of shares offered; the rate and periods, or manner of calculating the rate and periods, for dividends, if any; the stated value and liquidation preference amount, if any; the voting rights, if any; the terms on which the series will be convertible into or exercisable or exchangeable for our common stock, preferred stock of another series or other securities described in this prospectus, debt or equity securities of third parties or property, if any; the redemption terms, if any; and any other specific terms. We may also offer depositary shares, each of which would represent an interest in a fractional share or multiple shares of our preferred stock. We may issue the depositary shares under deposit agreements between us and one or more depositaries.

Capital Securities

The Issuer Trusts may offer and sell capital securities, in one or more offerings. Capital securities represent preferred beneficial interests in the Issuer Trust that issues them. Each Issuer Trust will issue its capital securities under a trust agreement between it and The Bank of New York and others as Issuer Trust trustees.

Form of Securities

We will issue the securities in book-entry form through one or more depositaries, such as The Depository Trust Company, Euroclear or Clearstream, named in the applicable prospectus supplement. Each sale of a security in book-entry form will settle in immediately available funds through the depositary, unless otherwise stated. We will issue the securities only in registered form, without coupons, although we may issue the securities in bearer form if so specified in the applicable prospectus supplement.

Payment Currencies

Amounts payable in respect of the securities, including the purchase price, will be payable in U.S. dollars, unless the applicable prospectus supplement says otherwise.

Listing

If any securities are to be listed or quoted on a securities exchange or quotation system, the applicable prospectus supplement will say so.

Use of Proceeds

We intend to use the net proceeds from the sales of the securities to provide additional funds for our operations and for other general corporate purposes.

Each Issuer Trust will use the proceeds from any offering of capital securities to purchase the corresponding subordinated debt securities issued by us. We expect to use the net proceeds from the

sale of the subordinated debt securities to the Issuer Trusts to provide additional funds for our operations and for other general corporate purposes.

Manner of Offering

The securities will be offered in connection with their initial issuance or in market-making transactions by our affiliates after initial issuance. Those offered in market-making transactions may be securities that we or the Issuer Trusts, as applicable, will not issue until after the date of this prospectus as well as securities that we have previously issued.

When we or the Issuer Trusts, as applicable, issue new securities, we or the Issuer Trusts may offer them for sale to or through underwriters, dealers and agents, including our affiliates, or directly to purchasers. The applicable prospectus supplement will include any required information about the firms we or the Issuer Trusts use and the discounts or commissions we may pay them for their services.

Our affiliates that we refer to above may include, among others, Goldman, Sachs & Co., for offers and sales in the United States, and Goldman Sachs International and Goldman Sachs (Asia) L.L.C., for offers and sales outside the United States.

USE OF PROCEEDS

We intend to use the net proceeds from the sales of the securities to provide additional funds for our operations and for other general corporate purposes.

Each Issuer Trust will use the proceeds from any offering of capital securities to purchase corresponding subordinated debt securities issued by us. We expect to use the net proceeds from the sale of the subordinated debt securities to the Issuer Trusts to provide additional funds for our operations and for other general corporate purposes.

DESCRIPTION OF DEBT SECURITIES WE MAY OFFER

Please note that in this section entitled "Description of Debt Securities We May Offer", references to "The Goldman Sachs Group, Inc.", "we", "our" and "us" refer only to The Goldman Sachs Group, Inc. and not to its consolidated subsidiaries. Also, in this section, references to "holders" mean those who own debt securities registered in their own names, on the books that we or the trustee maintain for this purpose, and not those who own beneficial interests in debt securities registered in street name or in debt securities issued in book-entry form through one or more depositaries. Owners of beneficial interests in the debt securities should read the section below entitled "Legal Ownership and Book-Entry Issuance".

Debt Securities May Be Senior or Subordinated

We may issue senior or subordinated debt securities. Neither the senior debt securities nor the subordinated debt securities will be secured by any property or assets of The Goldman Sachs Group, Inc. or its subsidiaries. Thus, by owning a debt security, you are one of our unsecured creditors.

The senior debt securities and, in the case of senior debt securities in bearer form, any related interest coupons, will constitute part of our senior debt, will be issued under our senior debt indenture described below and will rank equally with all of our other unsecured and unsubordinated debt.

The subordinated debt securities and, in the case of subordinated debt securities in bearer form, any related interest coupons will constitute part of our subordinated debt, will be issued under our subordinated debt indenture described below and will be subordinate in right of payment to all of our "senior indebtedness", as defined in the subordinated debt indenture. The prospectus supplement for any series of subordinated debt securities or the information incorporated in this prospectus by reference will indicate the approximate amount of senior indebtedness outstanding as of the end of our most recent fiscal quarter. Neither indenture limits our ability to incur additional senior indebtedness.

When we refer to "debt securities" in this prospectus, we mean both the senior debt securities and the subordinated debt securities.

The Senior Debt Indenture and the Subordinated Debt Indenture

The senior debt securities and the subordinated debt securities are each governed by a document called an indenture — the senior debt indenture, in the case of the senior debt securities, and the subordinated debt indenture, in the case of the subordinated debt securities. Each indenture is a contract between us and The Bank of New York, which will initially act as trustee. The indentures are substantially identical, except for our covenant described below under "— Restriction on Liens", which is included only in the senior debt indenture, and the provisions relating to subordination, which are included only in the subordinated debt indenture.

The trustee under each indenture has two main roles:

- First, the trustee can enforce your rights against us if we default. There are some limitations on the extent to which the trustee acts on your behalf, which we describe below under "— Default, Remedies and Waiver of Default".
- Second, the trustee performs administrative duties for us, such as sending you interest payments and notices.

See "— Our Relationship With the Trustee" below for more information about the trustee.

When we refer to the indenture or the trustee with respect to any debt securities, we mean the indenture under which those debt securities are issued and the trustee under that indenture.

We May Issue Many Series of Debt Securities

We may issue as many distinct series of debt securities under either debt indenture as we wish. This section summarizes terms of the securities that apply generally to all series. The provisions of each indenture allow us not only to issue debt securities with terms different from those of debt securities previously issued under that indenture, but also to "reopen" a previously issued series of debt securities and issue additional debt securities of that series. We describe most of the financial and other specific terms of your series, whether it be a series of the senior debt securities or subordinated debt securities, in the prospectus supplement accompanying this prospectus. Those terms may vary from the terms described here.

As you read this section, please remember that the specific terms of your debt security as described in your prospectus supplement will supplement and, if applicable, may modify or replace the general terms described in this section. If there are any differences between your prospectus supplement and this prospectus, your prospectus supplement will control. Thus, the statements we make in this section may not apply to your debt security.

When we refer to a series of debt securities, we mean a series issued under the applicable indenture. When we refer to your prospectus supplement, we mean the prospectus supplement describing the specific terms of the debt security you purchase. The terms used in your prospectus supplement will have the meanings described in this prospectus, unless otherwise specified.

Amounts That We May Issue

Neither debt indenture limits the aggregate amount of debt securities that we may issue or the number of series or the aggregate amount of any particular series. We may issue debt securities and other securities at any time without your consent and without notifying you.

The indentures and the debt securities do not limit our ability to incur other indebtedness or to issue other securities. Also, we are not subject to financial or similar restrictions by the terms of the debt securities, except as described below under "— Restriction on Liens".

Principal Amount, Stated Maturity and Maturity

The principal amount of a debt security means the principal amount payable at its stated maturity, unless that amount is not determinable, in which case the principal amount of a debt security is its face amount. Any debt securities owned by us or any of our affiliates are not deemed to be outstanding.

The term "stated maturity" with respect to any debt security means the day on which the principal amount of your debt security is scheduled to become due. The principal may become due sooner, by reason of redemption or acceleration after a default or otherwise in accordance with the terms of the debt security. The day on which the principal actually becomes due, whether at the stated maturity or earlier, is called the "maturity" of the principal.

We also use the terms "stated maturity" and "maturity" to refer to the days when other payments become due. For example, we may refer to a regular interest payment date when an installment of interest is scheduled to become due as the "stated maturity" of that installment. When we refer to the "stated maturity" or the "maturity" of a debt security without specifying a particular payment, we mean the stated maturity or maturity, as the case may be, of the principal.

We Are a Holding Company

Because our assets consist principally of interests in the subsidiaries through which we conduct our businesses, our right to participate as an equity holder in any distribution of assets of any of our

subsidiaries upon the subsidiary's liquidation or otherwise, and thus the ability of our security holders to benefit from the distribution, is junior to creditors of the subsidiary, except to the extent that any claims we may have as a creditor of the subsidiary are recognized. In addition, dividends, loans and advances to us from some of our subsidiaries, including Goldman, Sachs & Co., are restricted by net capital requirements under the Securities Exchange Act of 1934 and under rules of securities exchanges and other regulatory bodies. Furthermore, because some of our subsidiaries, including Goldman, Sachs & Co., are partnerships in which we are a general partner, we may be liable for their obligations. We also guarantee many of the obligations of our subsidiaries. Any liability we may have for our subsidiaries' obligations could reduce our assets that are available to satisfy our direct creditors, including investors in our securities.

This Section Is Only a Summary

The debt indentures and their associated documents, including your debt security, contain the full legal text of the matters described in this section and your prospectus supplement. We have filed copies of the indentures with the SEC as exhibits to our registration statements. See "Available Information" above for information on how to obtain copies of them.

This section and your prospectus supplement summarize all the material terms of the indentures and your debt security. They do not, however, describe every aspect of the indentures and your debt security. For example, in this section and your prospectus supplement, we use terms that have been given special meaning in the indentures, but we describe the meaning for only the more important of those terms.

Governing Law

The debt indentures and the debt securities will be governed by New York law.

Currency of Debt Securities

Amounts that become due and payable on your debt security in cash will be payable in a currency, composite currency, basket of currencies or currency unit or units specified in your prospectus supplement. We refer to this currency, composite currency, basket of currencies or currency unit or units as a "specified currency". The specified currency for your debt security will be U.S. dollars, unless your prospectus supplement states otherwise. Some debt securities may have different specified currencies for principal and interest. You will have to pay for your debt securities by delivering the requisite amount of the specified currency for the principal to Goldman, Sachs & Co. or another firm that we name in your prospectus supplement, unless other arrangements have been made between you and us or you and Goldman, Sachs & Co. We will make payments on your debt securities in the specified currency, except as described below in "— Payment Mechanics for Debt Securities". See "Considerations Relating to Securities Denominated or Payable in or Linked to a Non-U.S. Dollar Currency" below for more information about risks of investing in debt securities of this kind.

Form of Debt Securities

We will issue each debt security in global — *i.e.*, book-entry — form only, unless we specify otherwise in the applicable prospectus supplement. Debt securities in book-entry form will be represented by a global security registered in the name of a depositary, which will be the holder of all the debt securities represented by the global security. Those who own beneficial interests in a global debt security will do so through participants in the depositary's securities clearance system, and the rights of these indirect owners will be governed solely by the applicable procedures of the depositary and its participants. We describe book-entry securities below under "Legal Ownership and Book-Entry Issuance".

In addition, we will generally issue each debt security in registered form, without coupons, unless we specify otherwise in the applicable prospectus supplement. If we issue a debt security in bearer form, the provisions described below under "Considerations Relating to Securities Issued in Bearer Form" would apply to that security. As we note in that section, some of the features of the debt securities that we describe in this prospectus may not apply to bearer debt securities.

Types of Debt Securities

We may issue any of the three types of senior debt securities or subordinated debt securities described below. A debt security may have elements of each of the three types of debt securities described below. For example, a debt security may bear interest at a fixed rate for some periods and at a floating rate in others. Similarly, a debt security may provide for a payment of principal at maturity linked to an index and also bear interest at a fixed or floating rate.

Fixed Rate Debt Securities

A debt security of this type will bear interest at a fixed rate described in the applicable prospectus supplement. This type includes zero coupon debt securities, which bear no interest and are instead issued at a price lower than the principal amount. See "— Original Issue Discount Debt Securities" below for more information about zero coupon and other original issue discount debt securities.

Each fixed rate debt security, except any zero coupon debt security, will bear interest from its original issue date or from the most recent date to which interest on the debt security has been paid or made available for payment. Interest will accrue on the principal of a fixed rate debt security at the fixed yearly rate stated in the applicable prospectus supplement, until the principal is paid or made available for payment or the debt security is converted or exchanged. Each payment of interest due on an interest payment date or the date of maturity will include interest accrued from and including the last date to which interest has been paid, or made available for payment, or from the issue date if none has been paid or made available for payment, to but excluding the interest payment date or the date of maturity. We will compute interest on fixed rate debt securities on the basis of a 360-day year of twelve 30-day months, unless your prospectus supplement provides that we will compute interest on a different basis. We will pay interest on each interest payment date and at maturity as described below under "— Payment Mechanics for Debt Securities".

Floating Rate Debt Securities

A debt security of this type will bear interest at rates that are determined by reference to an interest rate formula. In some cases, the rates may also be adjusted by adding or subtracting a spread or multiplying by a spread multiplier and may be subject to a minimum rate or a maximum rate. If your debt security is a floating rate debt security, the formula and any adjustments that apply to the interest rate will be specified in your prospectus supplement.

Each floating rate debt security will bear interest from its original issue date or from the most recent date to which interest on the debt security has been paid or made available for payment. Interest will accrue on the principal of a floating rate debt security at the yearly rate determined according to the interest rate formula stated in the applicable prospectus supplement, until the principal is paid or made available for payment. We will pay interest on each interest payment date and at maturity as described below under "— Payment Mechanics for Debt Securities".

Calculation of Interest. Calculations relating to floating rate debt securities will be made by the calculation agent, an institution that we appoint as our agent for this purpose. That institution may include any affiliate of ours, such as Goldman, Sachs & Co. The prospectus supplement for a particular floating rate debt security will name the institution that we have appointed to act as the calculation agent for that debt security as of its original issue date. We may appoint a different institution to serve as calculation agent from time to time after the original issue date of the debt

security without your consent and without notifying you of the change. Absent manifest error, all determinations of the calculation will be final and binding on you and us, without any liability on the part of the calculation agent.

For each floating rate debt security, the calculation agent will determine, on the corresponding interest calculation or determination date, as described in the applicable prospectus supplement, the interest rate that takes effect on each interest reset date. In addition, the calculation agent will calculate the amount of interest that has accrued during each interest period — *i.e.*, the period from and including the original issue date, or the last date to which interest has been paid or made available for payment, to but excluding the payment date. For each interest period, the calculation agent will calculate the amount of accrued interest by multiplying the face or other specified amount of the floating rate debt security by an accrued interest factor for the interest period. This factor will equal the sum of the interest factors calculated for each day during the interest period. The interest factor for each day will be expressed as a decimal and will be calculated by dividing the interest rate, also expressed as a decimal, applicable to that day by 360 or by the actual number of days in the year, as specified in the applicable prospectus supplement.

Upon the request of the holder of any floating rate debt security, the calculation agent will provide for that debt security the interest rate then in effect — and, if determined, the interest rate that will become effective on the next interest reset date. The calculation agent's determination of any interest rate, and its calculation of the amount of interest for any interest period, will be final and binding in the absence of manifest error.

All percentages resulting from any calculation relating to a debt security will be rounded upward or downward, as appropriate, to the next higher or lower one hundred-thousandth of a percentage point, e.g., 9.876541% (or .09876541) being rounded down to 9.87654% (or .0987654) and 9.876545% (or .09876545) being rounded up to 9.87655% (or .0987655). All amounts used in or resulting from any calculation relating to a floating rate debt security will be rounded upward or downward, as appropriate, to the nearest cent, in the case of U.S. dollars, or to the nearest corresponding hundredth of a unit, in the case of a currency other than U.S. dollars, with one-half cent or one-half of a corresponding hundredth of a unit or more being rounded upward.

In determining the base rate that applies to a floating rate debt security during a particular interest period, the calculation agent may obtain rate quotes from various banks or dealers active in the relevant market, as described in the applicable prospectus supplement. Those reference banks and dealers may include the calculation agent itself and its affiliates, as well as any underwriter, dealer or agent participating in the distribution of the relevant floating rate debt securities and its affiliates, and they may include affiliates of The Goldman Sachs Group, Inc.

Indexed Debt Securities

A debt security of this type provides that the principal amount payable at its maturity, and/or the amount of interest payable on an interest payment date, will be determined by reference to:

- securities of one or more issuers;
- one or more currencies;
- one or more commodities;
- any other financial, economic or other measure or instrument, including the occurrence or non-occurrence of any event or circumstance; and/or
- one or more indices or baskets of the items described above.

If you are a holder of an indexed debt security, you may receive an amount at maturity (including upon acceleration following an event of default) that is greater than or less than the face amount of your

debt security depending upon the formula used to determine the amount payable and the value of the applicable index at maturity. The value of the applicable index will fluctuate over time.

An indexed debt security may provide either for cash settlement or for physical settlement by delivery of the underlying property or another property of the type listed above. An indexed debt security may also provide that the form of settlement may be determined at our option or at the holder's option. Some indexed debt securities may be convertible, exercisable or exchangeable, at our option or the holder's option, into or for securities of The Goldman Sachs Group, Inc. or an issuer other than The Goldman Sachs Group, Inc.

If you purchase an indexed debt security, your prospectus supplement will include information about the relevant index, about how amounts that are to become payable will be determined by reference to the price or value of that index and about the terms on which the security may be settled physically or in cash. The prospectus supplement will also identify the calculation agent that will calculate the amounts payable with respect to the indexed debt security and may exercise significant discretion in doing so. The calculation agent may be Goldman, Sachs & Co. or another of our affiliates. See "Considerations Relating to Indexed Securities" for more information about risks of investing in debt securities of this type.

Original Issue Discount Debt Securities

A fixed rate debt security, a floating rate debt security or an indexed debt security may be an original issue discount debt security. A debt security of this type is issued at a price lower than its principal amount and may provide that, upon redemption or acceleration of its maturity, an amount less than its principal amount may be payable. An original issue discount debt security may be a zero coupon debt security. A debt security issued at a discount to its principal may, for U.S. federal income tax purposes, be considered an original issue discount debt security, regardless of the amount payable upon redemption or acceleration of maturity. See "United States Taxation — Taxation of Debt Securities — United States Holders — Original Issue Discount" below for a brief description of the U.S. federal income tax consequences of owning an original issue discount debt security.

Information in the Prospectus Supplement

Your prospectus supplement will describe the specific terms of your debt security, which will include some or all of the following:

- whether it is a senior debt security or a subordinated debt security;
- any limit on the total principal amount of the debt securities of the same series;
- the stated maturity;
- the specified currency or currencies for principal and interest, if not U.S. dollars;
- the price at which we originally issue your debt security, expressed as a percentage of the principal amount, and the original issue date;
- whether your debt security is a fixed rate debt security, a floating rate debt security or an indexed debt security;
- if your debt security is a fixed rate debt security, the yearly rate at which your debt security will bear interest, if any, and the interest payment dates;
- if your debt security is a floating rate debt security, the interest rate basis; any applicable index currency or maturity, spread or spread multiplier or initial, maximum or minimum rate; the interest reset, determination, calculation and payment dates; the day count used to calculate interest payments for any period; and the calculation agent;

- if your debt security is an indexed debt security, the principal amount, if any, we will pay you at maturity, the amount of interest, if any, we will pay you on an interest payment date or the formula we will use to calculate these amounts, if any, and the terms on which your debt security will be exchangeable for or payable in cash, securities or other property;
- if your debt security may be converted into or exercised or exchanged for common or preferred stock or other securities of The Goldman Sachs Group, Inc. or debt or equity securities of one or more third parties, the terms on which conversion, exercise or exchange may occur, including whether conversion, exercise or exchange is mandatory, at the option of the holder or at our option, the period during which conversion, exercise or exchange may occur, the initial conversion, exercise or exchange price or rate and the circumstances or manner in which the amount of common or preferred stock or other securities issuable upon conversion, exercise or exchange may be adjusted;
- if your debt security is also an original issue discount debt security, the yield to maturity;
- if applicable, the circumstances under which your debt security may be redeemed at our option or repaid at the holder's option before the stated maturity, including any redemption commencement date, repayment date(s), redemption price(s) and redemption period(s);
- the authorized denominations, if other than $1,000 and integral multiples of $1,000;
- the depositary for your debt security, if other than DTC, and any circumstances under which the holder may request securities in non-global form, if we choose not to issue your debt security in book-entry form only;
- if your debt security will be issued in bearer form, any special provisions relating to bearer securities that are not addressed in this prospectus;
- if applicable, the circumstances under which we will pay additional amounts on any debt securities held by a person who is not a United States person for tax purposes and under which we can redeem the debt securities if we have to pay additional amounts;
- the names and duties of any co-trustees, depositaries, authenticating agents, paying agents, transfer agents or registrars for your debt security, as applicable; and
- any other terms of your debt security, which could be different from those described in this prospectus.

Market-Making Transactions. If you purchase your debt security — or any of our other securities we describe in this prospectus — in a market-making transaction, you will receive information about the price you pay and your trade and settlement dates in a separate confirmation of sale. A market-making transaction is one in which Goldman, Sachs & Co. or another of our affiliates resells a security that it has previously acquired from another holder. A market-making transaction in a particular security occurs after the original issuance and sale of the security.

Redemption and Repayment

Unless otherwise indicated in your prospectus supplement, your debt security will not be entitled to the benefit of any sinking fund — that is, we will not deposit money on a regular basis into any separate custodial account to repay your debt securities. In addition, we will not be entitled to redeem your debt security before its stated maturity unless your prospectus supplement specifies a redemption commencement date. You will not be entitled to require us to buy your debt security from you, before its stated maturity, unless your prospectus supplement specifies one or more repayment dates.

If your prospectus supplement specifies a redemption commencement date or a repayment date, it will also specify one or more redemption prices or repayment prices, which may be expressed as a percentage of the principal amount of your debt security. It may also specify one or more redemption periods during which the redemption prices relating to a redemption of debt securities during those periods will apply.

If your prospectus supplement specifies a redemption commencement date, your debt security will be redeemable at our option at any time on or after that date or at a specified time or times. If we redeem your debt security, we will do so at the specified redemption price, together with interest accrued to the redemption date. If different prices are specified for different redemption periods, the price we pay will be the price that applies to the redemption period during which your debt security is redeemed.

If your prospectus supplement specifies a repayment date, your debt security will be repayable at the holder's option on the specified repayment date at the specified repayment price, together with interest accrued to the repayment date.

If we exercise an option to redeem any debt security, we will give to the holder written notice of the principal amount of the debt security to be redeemed, not less than 30 days nor more than 60 days before the applicable redemption date. We will give the notice in the manner described below in "— Notices".

If a debt security represented by a global debt security is subject to repayment at the holder's option, the depositary or its nominee, as the holder, will be the only person that can exercise the right to repayment. Any indirect owners who own beneficial interests in the global debt security and wish to exercise a repayment right must give proper and timely instructions to their banks or brokers through which they hold their interests, requesting that they notify the depositary to exercise the repayment right on their behalf. Different firms have different deadlines for accepting instructions from their customers, and you should take care to act promptly enough to ensure that your request is given effect by the depositary before the applicable deadline for exercise.

Street name and other indirect owners should contact their banks or brokers for information about how to exercise a repayment right in a timely manner.

We or our affiliates may purchase debt securities from investors who are willing to sell from time to time, either in the open market at prevailing prices or in private transactions at negotiated prices. Debt securities that we or they purchase may, at our discretion, be held, resold or canceled.

Mergers and Similar Transactions

We are generally permitted to merge or consolidate with another corporation or other entity. We are also permitted to sell our assets substantially as an entirety to another corporation or other entity. With regard to any series of debt securities, however, we may not take any of these actions unless all the following conditions are met:

- If the successor entity in the transaction is not The Goldman Sachs Group, Inc., the successor entity must be organized as a corporation, partnership or trust and must expressly assume our obligations under the debt securities of that series and the indenture with respect to that series. The successor entity may be organized under the laws of any jurisdiction, whether in the United States or elsewhere.
- Immediately after the transaction, no default under the debt securities of that series has occurred and is continuing. For this purpose, "default under the debt securities of that series" means an event of default with respect to that series or any event that would be an event of default with respect to that series if the requirements for giving us default notice and for our default having to continue for a specific period of time were disregarded. We describe these matters below under "— Default, Remedies and Waiver of Default".

If the conditions described above are satisfied with respect to the debt securities of any series, we will not need to obtain the approval of the holders of those debt securities in order to merge or consolidate or to sell our assets. Also, these conditions will apply only if we wish to merge or consolidate with another entity or sell our assets substantially as an entirety to another entity. We will not need to satisfy these conditions if we enter into other types of transactions, including any transaction in which we acquire the stock or assets of another entity, any transaction that involves a change of control of The Goldman Sachs Group, Inc. but in which we do not merge or consolidate and any transaction in which we sell less than substantially all our assets.

Also, if we merge, consolidate or sell our assets substantially as an entirety and the successor is a non-U.S. entity, neither we nor any successor would have any obligation to compensate you for any resulting adverse tax consequences relating to your debt securities.

Subordination Provisions

Holders of subordinated debt securities should recognize that contractual provisions in the subordinated debt indenture may prohibit us from making payments on those securities. Subordinated debt securities are subordinate and junior in right of payment, to the extent and in the manner stated in the subordinated debt indenture, to all of our senior indebtedness, as defined in the subordinated debt indenture, including all debt securities we have issued and will issue under the senior debt indenture and all warrants we will issue under the warrant indenture.

The subordinated debt indenture defines "senior indebtedness" as all indebtedness and obligations of, or guaranteed or assumed by, The Goldman Sachs Group, Inc. for borrowed money or evidenced by bonds, debentures, notes or other similar instruments, whether existing now or in the future, and all amendments, renewals, extensions, modifications and refundings of any indebtedness or obligations of that kind. Senior debt excludes the subordinated debt securities and any other indebtedness or obligations specifically designated as being subordinate, or not superior, in right of payment to the subordinated debt securities.

We may modify the subordination provisions, including the definition of senior indebtedness, with respect to one or more series of subordinated debt securities, such as series sold to the Issuer Trusts in connection with their issuance of capital securities. For a description of these modifications in the case of capital securities, see "Description of Capital Securities and Related Instruments — Corresponding Subordinated Debt Securities". With regard to modifications in other cases, see the applicable prospectus supplement.

The subordinated debt indenture provides that, unless all principal of and any premium or interest on the senior indebtedness has been paid in full, no payment or other distribution may be made in respect of any subordinated debt securities in the following circumstances:

- in the event of any insolvency or bankruptcy proceedings, or any receivership, liquidation, reorganization, assignment for creditors or other similar proceedings or events involving us or our assets;

- (a) in the event and during the continuation of any default in the payment of principal, premium or interest on any senior indebtedness beyond any applicable grace period or (b) in the event that any event of default with respect to any senior indebtedness has occurred and is continuing, permitting the holders of that senior indebtedness (or a trustee) to accelerate the maturity of that senior indebtedness, whether or not the maturity is in fact accelerated (unless, in the case of (a) or (b), the payment default or event of default has been cured or waived or ceased to exist and any related acceleration has been rescinded) or (c) in the event that any judicial proceeding is pending with respect to a payment default or event of default described in (a) or (b); or

- in the event that any subordinated debt securities have been declared due and payable before their stated maturity.

If the trustee under the subordinated debt indenture or any holders of the subordinated debt securities receive any payment or distribution that is prohibited under the subordination provisions, then the trustee or the holders will have to repay that money to the holders of the senior indebtedness.

Even if the subordination provisions prevent us from making any payment when due on the subordinated debt securities of any series, we will be in default on our obligations under that series if we do not make the payment when due. This means that the trustee under the subordinated debt indenture and the holders of that series can take action against us, but they will not receive any money until the claims of the holders of senior indebtedness have been fully satisfied.

The subordinated debt indenture allows the holders of senior indebtedness to obtain a court order requiring us and any holder of subordinated debt securities to comply with the subordination provisions.

Restriction on Liens

In the senior debt indenture, we promise, with respect to each series of senior debt securities, not to create, assume, incur or guarantee any debt for borrowed money that is secured by a lien on the voting or profit participating equity ownership interests that we or any of our subsidiaries own in Goldman, Sachs & Co., or in any subsidiary that beneficially owns or holds, directly or indirectly, those interests in Goldman, Sachs & Co., unless we also secure the senior debt securities of that series on an equal or priority basis with the other secured debt. Our promise, however, is subject to an important exception: we may secure debt for borrowed money with liens on those interests without securing the senior debt securities of any series if our board of directors determines that the liens do not materially detract from or interfere with the value or control of those interests, as of the date of the determination.

The subordinated debt indenture does not include the promise described in the preceding paragraph.

Except as noted above, neither indenture restricts our ability to put liens on our interests in our subsidiaries other than Goldman, Sachs & Co., nor do the indentures restrict our ability to sell or otherwise dispose of our interests in any of our subsidiaries, including Goldman, Sachs & Co. In addition, the restriction on liens in the senior debt indenture applies only to liens that secure debt for borrowed money. For example, liens imposed by operation of law, such as liens to secure statutory obligations for taxes or workers' compensation benefits, or liens we create to secure obligations to pay legal judgments or surety bonds, would not be covered by this restriction.

Defeasance and Covenant Defeasance

Unless we say otherwise in the applicable prospectus supplement, the provisions for full defeasance and covenant defeasance described below apply to each senior and subordinated debt security. In general, we expect these provisions to apply to each debt security that has a specified currency of U.S. dollars and is not a floating rate or indexed debt security.

Full Defeasance. If there is a change in U.S. federal tax law, as described below, we can legally release ourselves from all payment and other obligations on any debt securities. This is called full defeasance. For us to do so, each of the following must occur:

- We must deposit in trust for the benefit of all holders of those debt securities a combination of money and U.S. government or U.S. government agency notes or bonds that will generate enough cash to make interest, principal and any other payments on those debt securities on their various due dates;

- There must be a change in current U.S. federal tax law or an Internal Revenue Service ruling that lets us make the above deposit without causing the holders to be taxed on those debt securities any differently than if we did not make the deposit and just repaid those debt securities ourselves. Under current federal tax law, the deposit and our legal release from your debt security would be treated as though we took back your debt security and gave you your share of the cash and notes or bonds deposited in trust. In that event, you could recognize gain or loss on your debt security;

- We must deliver to the trustee a legal opinion of our counsel confirming the tax law change described above; and

- In the case of the subordinated debt securities, the following requirements must also be met:

  — No event or condition may exist that, under the provisions described above under "— Subordination Provisions" above, would prevent us from making payments of principal, premium or interest on those subordinated debt securities on the date of the deposit referred to above or during the 90 days after that date; and

  — We must deliver to the trustee an opinion of counsel to the effect that (a) the trust funds will not be subject to any rights of holders of senior indebtedness and (b) after the 90-day period referred to above, the trust funds will not be subject to any applicable bankruptcy, insolvency, reorganization or similar laws affecting creditors' rights generally, except that if a court were to rule under any of those laws in any case or proceeding that the trust funds remained our property, then the relevant trustee and the holders of the subordinated debt securities would be entitled to some enumerated rights as secured creditors in the trust funds.

If we ever fully defeased your debt security, you would have to rely solely on the trust deposit for payments on your debt security. You would not be able to look to us for payment in the event of any shortfall.

Covenant Defeasance. Under current U.S. federal tax law, we can make the same type of deposit described above and be released from the restriction on liens described under "— Restriction on Liens" above and any other restrictive covenants relating to your debt security that may be described in your prospectus supplement. This is called covenant defeasance. In that event, you would lose the protection of those restrictive covenants. In order to achieve covenant defeasance for any debt securities, we must do both of the following:

- We must deposit in trust for the benefit of the holders of those debt securities a combination of money and U.S. government or U.S. government agency notes or bonds that will generate enough cash to make interest, principal and any other payments on those debt securities on their various due dates; and
- We must deliver to the trustee a legal opinion of our counsel confirming that under current U.S. federal income tax law we may make the above deposit without causing the holders to be taxed on those debt securities any differently than if we did not make the deposit and just repaid those debt securities ourselves.

In addition, in order to achieve covenant defeasance for any subordinated debt securities that have the benefit of any restrictive covenants, both conditions described in the last bullet point under "— Full Defeasance" above must be satisfied. Subordinated debt securities will not have the benefit of any restrictive covenants unless the applicable prospectus supplement specifically provides that they do.

If we accomplish covenant defeasance with regard to your debt security, the following provisions of the applicable indenture and your debt security would no longer apply:

- If your debt security is a senior debt security, our promise not to create liens on our voting or profit participating equity ownership interests in Goldman, Sachs & Co. described above under "— Restriction on Liens";
- Any additional covenants that your prospectus supplement may state are applicable to your debt security; and
- The events of default resulting from a breach of covenants, described below in the fourth bullet point under "— Default, Remedies and Waiver of Default — Events of Default".

Any right we have to redeem will survive covenant defeasance with regard to those debt securities.

If we accomplish covenant defeasance on your debt security, you can still look to us for repayment of your debt security in the event of any shortfall in the trust deposit. You should note, however, that if one of the remaining events of default occurred, such as our bankruptcy, and your debt security became immediately due and payable, there may be a shortfall. Depending on the event causing the default, you may not be able to obtain payment of the shortfall.

Default, Remedies and Waiver of Default

You will have special rights if an event of default with respect to your series of debt securities occurs and is continuing, as described in this subsection.

Events of Default

Unless your prospectus supplement says otherwise, when we refer to an event of default with respect to any series of debt securities, we mean any of the following:

- We do not pay the principal or any premium on any debt security of that series on the due date;
- We do not pay interest on any debt security of that series within 30 days after the due date;

- We do not deposit a sinking fund payment with regard to any debt security of that series on the due date, but only if the payment is required under provisions described in the applicable prospectus supplement;

- We remain in breach of our covenant described above under "— Restriction on Liens", in the case of any series of senior debt securities, or any other covenant we make in the indenture for the benefit of the relevant series, for 60 days after we receive a notice of default stating that we are in breach and requiring us to remedy the breach. The notice must be sent by the trustee or the holders of at least 10% in principal amount of the relevant series of debt securities then outstanding;

- We file for bankruptcy or other events of bankruptcy, insolvency or reorganization relating to The Goldman Sachs Group, Inc. occur. Those events must arise under U.S. federal or state law, unless we merge, consolidate or sell our assets as described above and the successor firm is a non-U.S. entity. If that happens, then those events must arise under U.S. federal or state law or the law of the jurisdiction in which the successor firm is legally organized; or

- If the applicable prospectus supplement states that any additional event of default applies to the series, that event of default occurs.

Remedies If an Event of Default Occurs

If you are the holder of a subordinated debt security, all the remedies available upon the occurrence of an event of default under the subordinated debt indenture will be subject to the restrictions on the subordinated debt securities described above under "— Subordination Provisions".

If an event of default has occurred with respect to any series of debt securities and has not been cured or waived, the trustee or the holders of not less than 25% in principal amount of all debt securities of that series then outstanding may declare the entire principal amount of the debt securities of that series to be due immediately. If the event of default occurs because of events in bankruptcy, insolvency or reorganization relating to The Goldman Sachs Group, Inc., the entire principal amount of the debt securities of that series will be automatically accelerated, without any action by the trustee or any holder.

Each of the situations described above is called an acceleration of the maturity of the affected series of debt securities. If the maturity of any series is accelerated and a judgment for payment has not yet been obtained, the holders of a majority in principal amount of the debt securities of that series may cancel the acceleration for the entire series.

If an event of default occurs, the trustee will have special duties. In that situation, the trustee will be obligated to use those of its rights and powers under the relevant indenture, and to use the same degree of care and skill in doing so, that a prudent person would use in that situation in conducting his or her own affairs.

Except as described in the prior paragraph, the trustee is not required to take any action under the relevant indenture at the request of any holders unless the holders offer the trustee reasonable protection from expenses and liability. This is called an indemnity. If the trustee is provided with an indemnity reasonably satisfactory to it, the holders of a majority in principal amount of all debt securities of the relevant series may direct the time, method and place of conducting any lawsuit or other formal legal action seeking any remedy available to the trustee with respect to that series. These majority holders may also direct the trustee in performing any other action under the applicable indenture with respect to the debt securities of that series.

Before you bypass the trustee and bring your own lawsuit or other formal legal action or take other steps to enforce your rights or protect your interests relating to any debt security, all of the following must occur:

- The holder of your debt security must give the trustee written notice that an event of default has occurred, and the event of default must not have been cured or waived;
- The holders of not less than 25% in principal amount of all debt securities of your series must make a written request that the trustee take action because of the default, and they or other holders must offer to the trustee indemnity reasonably satisfactory to the trustee against the cost and other liabilities of taking that action;
- The trustee must not have taken action for 60 days after the above steps have been taken; and
- During those 60 days, the holders of a majority in principal amount of the debt securities of your series must not have given the trustee directions that are inconsistent with the written request of the holders of not less than 25% in principal amount of the debt securities of your series.

You are entitled at any time, however, to bring a lawsuit for the payment of money due on your debt security on or after its due date.

Waiver of Default

The holders of not less than a majority in principal amount of the debt securities of any series may waive a default for all debt securities of that series. If this happens, the default will be treated as if it has not occurred. No one can waive a payment default on your debt security, however, without the approval of the particular holder of that debt security.

We Will Give the Trustee Information About Defaults Annually

We will furnish to each trustee every year a written statement of two of our officers certifying that to their knowledge we are in compliance with the applicable indenture and the debt securities issued under it, or else specifying any default under the indenture.

Book-entry and other indirect owners should consult their banks or brokers for information on how to give notice or direction to or make a request of the trustee and how to declare or cancel an acceleration of the maturity. Book-entry and other indirect owners are described below under "Legal Ownership and Book-Entry Issuance".

Modification of the Debt Indentures and Waiver of Covenants

There are four types of changes we can make to either debt indenture and the debt securities of any series issued under that indenture.

Changes Requiring Each Holder's Approval

First, there are changes that cannot be made without the approval of each holder of a debt security affected by the change under a particular debt indenture. Here is a list of those types of changes:

- change the stated maturity for any principal or interest payment on a debt security;
- reduce the principal amount, the amount payable on acceleration of the maturity after a default, the interest rate or the redemption price for a debt security;
- permit redemption of a debt security if not previously permitted;

- impair any right a holder may have to require repayment of its debt security;
- impair any right that a holder of an indexed or any other debt security may have to exchange or convert the debt security for or into securities or other property;
- change the currency of any payment on a debt security;
- change the place of payment on a debt security;
- impair a holder's right to sue for payment of any amount due on its debt security;
- reduce the percentage in principal amount of the debt securities of any one or more affected series, taken separately or together, as applicable, the approval of whose holders is needed to change the indenture or those debt securities;
- reduce the percentage in principal amount of the debt securities of any one or more affected series, taken separately or together, as applicable, the consent of whose holders is needed to waive our compliance with the applicable indenture or to waive defaults; and
- change the provisions of the applicable indenture dealing with modification and waiver in any other respect, except to increase any required percentage referred to above or to add to the provisions that cannot be changed or waived without approval of the holder of each affected debt security.

Changes Not Requiring Approval

The second type of change does not require any approval by holders of the debt securities of an affected series. These changes are limited to clarifications and changes that would not adversely affect the debt securities of that series in any material respect. Nor do we need any approval to make changes that affect only debt securities to be issued under the applicable indenture after the changes take effect.

We may also make changes or obtain waivers that do not adversely affect a particular debt security, even if they affect other debt securities. In those cases, we do not need to obtain the approval of the holder of the unaffected debt security; we need only obtain any required approvals from the holders of the affected debt securities.

Modification of Subordination Provisions

We may not amend the subordinated debt indenture to alter the subordination of any outstanding subordinated debt securities without the written consent of each holder of senior indebtedness then outstanding who would be adversely affected. In addition, we may not modify the subordination provisions of the subordinated debt indenture in a manner that would adversely affect the subordinated debt securities of any one or more series then outstanding in any material respect, without the consent of the holders of a majority in aggregate principal amount of all affected series then outstanding, voting together as one class (and also of any affected series that by its terms is entitled to vote separately as a series, as described below).

Changes Requiring Majority Approval

Any other change to a particular debt indenture and the debt securities issued under that indenture would require the following approval:

- If the change affects only the debt securities of a particular series, it must be approved by the holders of a majority in principal amount of the debt securities of that series.
- If the change affects the debt securities of more than one series of debt securities issued under the applicable indenture, it must be approved by the holders of a majority in principal amount of all series affected by the change, with the debt securities of all the affected series voting

together as one class for this purpose (and of any affected series that by its terms is entitled to vote separately as a series, as described below).

In each case, the required approval must be given by written consent.

The same majority approval would be required for us to obtain a waiver of any of our covenants in either indenture. Our covenants include the promises we make about merging and putting liens on our interests in Goldman, Sachs & Co., which we describe above under "— Mergers and Similar Transactions" and "— Restriction on Liens", and which, in the latter case, are only for the benefit of the holders of our senior debt securities. If the holders approve a waiver of a covenant, we will not have to comply with it. The holders, however, cannot approve a waiver of any provision in a particular debt security, or in the applicable indenture as it affects that debt security, that we cannot change without the approval of the holder of that debt security as described above in "— Changes Requiring Each Holder's Approval", unless that holder approves the waiver.

Book-entry and other indirect owners should consult their banks or brokers for information on how approval may be granted or denied if we seek to change an indenture or any debt securities or request a waiver.

Special Rules for Action by Holders

When holders take any action under either debt indenture, such as giving a notice of default, declaring an acceleration, approving any change or waiver or giving the trustee an instruction, we will apply the following rules.

Only Outstanding Debt Securities Are Eligible

Only holders of outstanding debt securities of the applicable series will be eligible to participate in any action by holders of debt securities of that series. Also, we will count only outstanding debt securities in determining whether the various percentage requirements for taking action have been met. For these purposes, a debt security will not be "outstanding":

- if it has been surrendered for cancellation;
- if we have deposited or set aside, in trust for its holder, money for its payment or redemption;
- if we have fully defeased it as described above under "— Defeasance and Covenant Defeasance — Full Defeasance"; or
- if we or one of our affiliates, such as Goldman, Sachs & Co., is the owner.

Special Series Voting Rights

We may issue series of debt securities that are entitled, by their terms, to vote separately on matters (for example, modification or waiver of provisions in the applicable indenture) that would otherwise require a vote of all affected series, voting together as a single class. Any such series would be entitled to vote together with all other affected series, voting together as one class, and would also be entitled to vote separately, as a series only. In some cases, other parties may be entitled to exercise these special voting rights on behalf of the holders of the relevant series. Subordinated debt securities issued to the Issuer Trusts in connection with capital securities have special rights of this kind, as described below under "Description of Capital Securities and Related Instruments — Corresponding Subordinated Debt Securities — Modifications of the Subordinated Debt Indenture". For other series of debt securities that have these rights, the rights will be described in the applicable prospectus supplement. For series that do not have these special rights, voting will occur as described in the preceding section, but subject to any separate voting rights of any series having special rights.

We may issue series having these or other special voting rights without obtaining the consent of or giving notice to holders of outstanding series.

Eligible Principal Amount of Some Debt Securities

In some situations, we may follow special rules in calculating the principal amount of a debt security that is to be treated as outstanding for the purposes described above. This may happen, for example, if the principal amount is payable in a non-U.S. dollar currency, increases over time or is not to be fixed until maturity.

For any debt security of the kind described below, we will decide how much principal amount to attribute to the debt security as follows:

- For an original issue discount debt security, we will use the principal amount that would be due and payable on the action date if the maturity of the debt security were accelerated to that date because of a default;
- For a debt security whose principal amount is not known, we will use any amount that we indicate in the prospectus supplement for that debt security. The principal amount of a debt security may not be known, for example, because it is based on an index that changes from time to time and the principal amount is not to be determined until a later date; or
- For debt securities with a principal amount denominated in one or more non-U.S. dollar currencies or currency units, we will use the U.S. dollar equivalent, which we will determine.

Determining Record Dates for Action by Holders

We will generally be entitled to set any day as a record date for the purpose of determining the holders that are entitled to take action under either indenture. In certain limited circumstances, only the trustee will be entitled to set a record date for action by holders. If we or the trustee set a record date for an approval or other action to be taken by holders, that vote or action may be taken only by persons or entities who are holders on the record date and must be taken during the period that we specify for this purpose, or that the trustee specifies if it sets the record date. We or the trustee, as applicable, may shorten or lengthen this period from time to time. This period, however, may not extend beyond the 180th day after the record date for the action. In addition, record dates for any global debt security may be set in accordance with procedures established by the depositary from time to time. Accordingly, record dates for global debt securities may differ from those for other debt securities.

Form, Exchange and Transfer of Debt Securities

If any debt securities cease to be issued in registered global form, they will be issued:

- only in fully registered form;
- without interest coupons; and
- unless we indicate otherwise in your prospectus supplement, in denominations of $1,000 and integral multiples of $1,000.

Holders may exchange their debt securities for debt securities of smaller denominations or combined into fewer debt securities of larger denominations, as long as the total principal amount is not changed. You may not exchange your debt securities for securities of a different series or having different terms, unless your prospectus supplement says you may.

Holders may exchange or transfer their debt securities at the office of the trustee. They may also replace lost, stolen, destroyed or mutilated debt securities at that office. We have appointed the trustee to act as our agent for registering debt securities in the names of holders and transferring and

replacing debt securities. We may appoint another entity to perform these functions or perform them ourselves.

Holders will not be required to pay a service charge to transfer or exchange their debt securities, but they may be required to pay for any tax or other governmental charge associated with the exchange or transfer. The transfer or exchange, and any replacement, will be made only if our transfer agent is satisfied with the holder's proof of legal ownership. The transfer agent may require an indemnity before replacing any debt securities.

If we have designated additional transfer agents for your debt security, they will be named in your prospectus supplement. We may appoint additional transfer agents or cancel the appointment of any particular transfer agent. We may also approve a change in the office through which any transfer agent acts.

If the debt securities of any series are redeemable and we redeem less than all those debt securities, we may block the transfer or exchange of those debt securities during the period beginning 15 days before the day we mail the notice of redemption and ending on the day of that mailing, in order to freeze the list of holders to prepare the mailing. We may also refuse to register transfers of or exchange any debt security selected for redemption, except that we will continue to permit transfers and exchanges of the unredeemed portion of any debt security being partially redeemed.

If a debt security is issued as a global debt security, only the depositary — *e.g.*, DTC, Euroclear and Clearstream — will be entitled to transfer and exchange the debt security as described in this subsection, since the depositary will be the sole holder of the debt security.

The rules for exchange described above apply to exchange of debt securities for other debt securities of the same series and kind. If a debt security is convertible, exercisable or exchangeable into or for a different kind of security, such as one that we have not issued, or for other property, the rules governing that type of conversion, exercise or exchange will be described in the applicable prospectus supplement.

Payment Mechanics for Debt Securities

Who Receives Payment?

If interest is due on a debt security on an interest payment date, we will pay the interest to the person in whose name the debt security is registered at the close of business on the regular record date relating to the interest payment date as described below under "— Payment and Record Dates for Interest". If interest is due at maturity but on a day that is not an interest payment date, we will pay the interest to the person entitled to receive the principal of the debt security. If principal or another amount besides interest is due on a debt security at maturity, we will pay the amount to the holder of the debt security against surrender of the debt security at a proper place of payment or, in the case of a global debt security, in accordance with the applicable policies of the depositary, Euroclear and Clearstream, as applicable.

Payment and Record Dates for Interest

Unless we specify otherwise in the applicable prospectus supplement, interest on any fixed rate debt security will be payable semiannually each May 15 and November 15 and at maturity, and the regular record date relating to an interest payment date for any fixed rate debt security will be the May 1 or November 1 next preceding that interest payment date. Unless we specify otherwise in the applicable prospectus supplement, the regular record date relating to an interest payment date for any floating rate debt security will be the 15th calendar day before that interest payment date. These record dates will apply regardless of whether a particular record date is a "business day", as defined below. For the purpose of determining the holder at the close of business on a regular record date

when business is not being conducted, the close of business will mean 5:00 P.M., New York City time, on that day.

Notwithstanding the foregoing, the record date for any payment date for a debt security in book-entry form will be the business day prior to the payment date.

Business Day. The term "business day" means, for any debt security, a day that meets all the following applicable requirements:

- for all debt securities, is a Monday, Tuesday, Wednesday, Thursday or Friday that is not a day on which banking institutions in New York City generally are authorized or obligated by law or executive order to close and that satisfies any other criteria specified in your prospectus supplement;
- if the debt security is a floating rate debt security whose interest rate is based on LIBOR, is also a day on which dealings in the relevant index currency specified in the applicable prospectus supplement are transacted in the London interbank market;
- if the debt security has a specified currency other than U.S. dollars or euros, is also a day on which banking institutions are not authorized or obligated by law, regulation or executive order to close in the principal financial center of the country issuing the specified currency;
- if the debt security either is a floating rate debt security whose interest rate is based on EURIBOR or has a specified currency of euros, is also a day on which the Trans-European Automated Real-Time Gross Settlement Express Transfer (TARGET) System, or any successor system, is open for business;
- if the debt security is held through Euroclear, is also not a day on which banking institutions in Brussels, Belgium are generally authorized or obligated by law, regulation or executive order to close; and
- if the debt security is held through Clearstream, is also not a day on which banking institutions in Luxembourg are generally authorized or obligated by law, regulation or executive order to close.

How We Will Make Payments Due in U.S. Dollars

We will follow the practice described in this subsection when paying amounts due in U.S. dollars. Payments of amounts due in other currencies will be made as described in the next subsection.

Payments on Global Debt Securities. We will make payments on a global debt security in accordance with the applicable policies of the depositary as in effect from time to time. Under those policies, we will pay directly to the depositary, or its nominee, and not to any indirect owners who own beneficial interests in the global debt security. An indirect owner's right to receive those payments will be governed by the rules and practices of the depositary and its participants, as described below in the section entitled "Legal Ownership and Book-Entry Issuance — What Is a Global Security?".

Payments on Non-Global Debt Securities. We will make payments on a debt security in non-global, registered form as follows. We will pay interest that is due on an interest payment date by check mailed on the interest payment date to the holder at his or her address shown on the trustee's records as of the close of business on the regular record date. We will make all other payments by check at the paying agent described below, against surrender of the debt security. All payments by check will be made in next-day funds — *i.e.*, funds that become available on the day after the check is cashed.

Alternatively, if a non-global debt security has a face amount of at least $1,000,000 and the holder asks us to do so, we will pay any amount that becomes due on the debt security by wire transfer of immediately available funds to an account at a bank in New York City, on the due date. To request wire payment, the holder must give the paying agent appropriate wire transfer instructions at least five

business days before the requested wire payment is due. In the case of any interest payment due on an interest payment date, the instructions must be given by the person or entity who is the holder on the relevant regular record date. In the case of any other payment, payment will be made only after the debt security is surrendered to the paying agent. Any wire instructions, once properly given, will remain in effect unless and until new instructions are given in the manner described above.

Book-entry and other indirect owners should consult their banks or brokers for information on how they will receive payments on their debt securities.

How We Will Make Payments Due in Other Currencies

We will follow the practice described in this subsection when paying amounts that are due in a specified currency other than U.S. dollars.

Payments on Global Debt Securities. We will make payments on a global debt security in the applicable specified currency in accordance with the applicable policies as in effect from time to time of the depositary, which will be DTC, Euroclear or Clearstream. Unless we specify otherwise in the applicable prospectus supplement, The Depository Trust Company, New York, New York, known as DTC, will be the depositary for all debt securities in global form.

Indirect owners of a global debt security denominated in a currency other than U.S. dollars should consult their banks or brokers for information on how to request payment in the specified currency in cases where holders have a right to do so.

Payments on Non-Global Debt Securities. Except as described in the last paragraph under this heading, we will make payments on debt securities in non-global form in the applicable specified currency. We will make these payments by wire transfer of immediately available funds to any account that is maintained in the applicable specified currency at a bank designated by the holder and is acceptable to us and the trustee. To designate an account for wire payment, the holder must give the paying agent appropriate wire instructions at least five business days before the requested wire payment is due. In the case of any interest payment due on an interest payment date, the instructions must be given by the person or entity who is the holder on the regular record date. In the case of any other payment, the payment will be made only after the debt security is surrendered to the paying agent. Any instructions, once properly given, will remain in effect unless and until new instructions are properly given in the manner described above.

If a holder fails to give instructions as described above, we will notify the holder at the address in the trustee's records and will make the payment within five business days after the holder provides appropriate instructions. Any late payment made in these circumstances will be treated under the applicable indenture as if made on the due date, and no interest will accrue on the late payment from the due date to the date paid.

Although a payment on a debt security in non-global form may be due in a specified currency other than U.S. dollars, we will make the payment in U.S. dollars if your prospectus supplement specifies that holders may ask us to do so and you make such a request. To request U.S. dollar payment in these circumstances, the holder must provide appropriate written notice to the trustee at least five business days before the next due date for which payment in U.S. dollars is requested. In the case of any interest payment due on an interest payment date, the request must be made by the person or entity who is the holder on the regular record date. Any request, once properly made, will remain in effect unless and until revoked by notice properly given in the manner described above.

Book-entry and other indirect owners of a debt security with a specified currency other than U.S. dollars should contact their banks or brokers for information about how to receive payments in the specified currency or in U.S. dollars.

Conversion to U.S. Dollars. Unless otherwise indicated in your prospectus supplement, holders are not entitled to receive payments in U.S. dollars of an amount due in another currency, either on a global debt security or a non-global debt security.

If your prospectus supplement specifies that holders may request that we make payments in U.S. dollars of an amount due in another currency, the exchange rate agent described below will calculate the U.S. dollar amount the holder receives in the exchange rate agent's discretion. A holder that requests payment in U.S. dollars will bear all associated currency exchange costs, which will be deducted from the payment.

When the Specified Currency Is Not Available. If we are obligated to make any payment in a specified currency other than U.S. dollars, and the specified currency or any successor currency is not available to us due to circumstances beyond our control — such as the imposition of exchange controls or a disruption in the currency markets — we will be entitled to satisfy our obligation to make the payment in that specified currency by making the payment in U.S. dollars, on the basis of the exchange rate determined by the exchange rate agent described below, in its discretion.

The foregoing will apply to any debt security, whether in global or non-global form, and to any payment, including a payment at maturity. Any payment made under the circumstances and in a manner described above will not result in a default under any debt security or the applicable indenture.

Exchange Rate Agent. If we issue a debt security in a specified currency other than U.S. dollars, we will appoint a financial institution to act as the exchange rate agent and will name the institution initially appointed when the debt security is originally issued in the applicable prospectus supplement. We may select Goldman, Sachs & Co. or another of our affiliates to perform this role. We may change the exchange rate agent from time to time after the original issue date of the debt security without your consent and without notifying you of the change.

All determinations made by the exchange rate agent will be in its sole discretion unless we state in the applicable prospectus supplement that any determination requires our approval. In the absence of manifest error, those determinations will be conclusive for all purposes and binding on you and us, without any liability on the part of the exchange rate agent.

Payment When Offices Are Closed

If any payment is due on a debt security on a day that is not a business day, we will make the payment on the next day that is a business day. Payments postponed to the next business day in this situation will be treated under the applicable indenture as if they were made on the original due date. Postponement of this kind will not result in a default under any debt security or the applicable indenture, and no interest will accrue on the postponed amount from the original due date to the next day that is a business day. The term business day has a special meaning, which we describe above under "— Payment and Record Dates for Interest".

Paying Agent

We may appoint one or more financial institutions to act as our paying agents, at whose designated offices debt securities in non-global entry form may be surrendered for payment at their maturity. We call each of those offices a paying agent. We may add, replace or terminate paying agents from time to time. We may also choose to act as our own paying agent. Initially, we have

appointed the trustee, at its corporate trust office in New York City, as the paying agent. We must notify the trustee of changes in the paying agents.

Unclaimed Payments

Regardless of who acts as paying agent, all money paid by us to a paying agent that remains unclaimed at the end of two years after the amount is due to a holder will be repaid to us. After that two-year period, the holder may look only to us for payment and not to the trustee, any other paying agent or anyone else.

Notices

Notices to be given to holders of a global debt security will be given only to the depositary, in accordance with its applicable policies as in effect from time to time. Notices to be given to holders of debt securities not in global form will be sent by mail to the respective addresses of the holders as they appear in the trustee's records, and will be deemed given when mailed. Neither the failure to give any notice to a particular holder, nor any defect in a notice given to a particular holder, will affect the sufficiency of any notice given to another holder.

Book-entry and other indirect owners should consult their banks or brokers for information on how they will receive notices.

Our Relationship With the Trustee

The Bank of New York has provided commercial banking and other services for us and our affiliates in the past and may do so in the future. Among other things, The Bank of New York provides us with a line of credit, holds debt securities issued by us and serves as trustee or agent with regard to other debt obligations and warrants of The Goldman Sachs Group, Inc. or its subsidiaries.

The Bank of New York is initially serving as the trustee for our senior debt securities and subordinated debt securities and the warrants issued under our warrant indenture. Consequently, if an actual or potential event of default occurs with respect to any of these securities, the trustee may be considered to have a conflicting interest for purposes of the Trust Indenture Act of 1939. In that case, the trustee may be required to resign under one or more of the indentures, and we would be required to appoint a successor trustee. For this purpose, a "potential" event of default means an event that would be an event of default if the requirements for giving us default notice or for the default having to exist for a specific period of time were disregarded.

DESCRIPTION OF WARRANTS WE MAY OFFER

Please note that in this section entitled "Description of Warrants We May Offer", references to The Goldman Sachs Group, Inc., "we", "our" and "us" refer only to The Goldman Sachs Group, Inc. and not to its consolidated subsidiaries. Also, in this section, references to "holders" mean those who own warrants registered in their own names, on the books that we or the applicable trustee or warrant agent maintain for this purpose, and not those who own beneficial interests in warrants registered in street name or in warrants issued in book-entry form through one or more depositaries. Owners of beneficial interests in the warrants should read the section below entitled "Legal Ownership and Book-Entry Issuance".

We May Issue Many Series of Warrants

We may issue warrants that are debt warrants or universal warrants. We may offer warrants separately or together with our debt securities. We may also offer warrants together with other warrants, purchase contracts and debt securities in the form of units, as summarized below in "Description of Units We May Offer".

We may issue warrants in such amounts or in as many distinct series as we wish. We will issue each series of warrants under either a warrant indenture or a warrant agreement. This section summarizes terms of the warrant indenture and warrant agreements and terms of the warrants that apply generally to the warrants. We describe most of the financial and other specific terms of your warrant in the prospectus supplement accompanying this prospectus. Those terms may vary from the terms described here.

As you read this section, please remember that the specific terms of your warrant as described in your prospectus supplement will supplement and, if applicable, may modify or replace the general terms described in this section. If there are differences between your prospectus supplement and this prospectus, your prospectus supplement will control. Thus, the statements we make in this section may not apply to your warrant.

When we refer to a series of warrants, we mean all warrants issued as part of the same series under the applicable indenture or warrant agreement. When we refer to your prospectus supplement, we mean the prospectus supplement describing the specific terms of the warrant you purchase. The terms used in your prospectus supplement will have the meanings described in this prospectus, unless otherwise specified.

Debt Warrants

We may issue warrants for the purchase of our debt securities on terms to be determined at the time of sale. We refer to this type of warrant as a "debt warrant".

Universal Warrants

We may also issue warrants, on terms to be determined at the time of sale, for the purchase or sale of, or whose cash value is determined by reference to the performance, level or value of, one or more of the following:

- securities of one or more issuers, including our common or preferred stock or other securities described in this prospectus or debt or equity securities of third parties;
- one or more currencies;

- one or more commodities;
- any other financial, economic or other measure or instrument, including the occurrence or non-occurrence of any event or circumstance; and
- one or more indices or baskets of the items described above.

We refer to this type of warrant as a "universal warrant". We refer to each property described above as a "warrant property".

We may satisfy our obligations, if any, and the holder of a universal warrant may satisfy its obligations, if any, with respect to any universal warrants by delivering:

- the warrant property;
- the cash value of the warrant property; or
- the cash value of the warrants determined by reference to the performance, level or value of the warrant property.

The applicable prospectus supplement will describe what we may deliver to satisfy our obligations, if any, and what the holder of a universal warrant may deliver to satisfy its obligations, if any, with respect to any universal warrants.

General Terms of Warrants

Your prospectus supplement may contain, where applicable, the following information about your warrants:

- the specific designation and aggregate number of, and the price at which we will issue, the warrants;
- the currency with which the warrants may be purchased;
- the indenture or warrant agreement under which we will issue the warrants;
- the date on which the right to exercise the warrants will begin and the date on which that right will expire or, if you may not continuously exercise the warrants throughout that period, the specific date or dates on which you may exercise the warrants;
- whether the warrants will be issued in fully registered form or bearer form, in global or non-global form or in any combination of these forms, although, in any case, the form of a warrant included in a unit will correspond to the form of the unit and of any debt security or purchase contract included in that unit;
- the identities of the trustee or warrant agent, any depositaries and any paying, transfer, calculation or other agents for the warrants;
- any securities exchange or quotation system on which the warrants or any securities deliverable upon exercise of the warrants may be listed;
- whether the warrants are to be sold separately or with other securities, as part of units or otherwise; and
- any other terms of the warrants.

If we issue warrants as part of a unit, the accompanying prospectus supplement will specify whether the warrants will be separable from the other securities in the unit before the warrants' expiration date. A warrant issued in a unit in the United States may not be so separated before the 91st day after the unit is issued.

No holder of a warrant will have any rights of a holder of the warrant property deliverable under the warrant.

An investment in a warrant may involve special risks, including risks associated with indexed securities and currency-related risks if the warrant or the warrant property is linked to an index or is payable in or otherwise linked to a non-U.S. dollar currency. We describe some of these risks below under “Considerations Relating to Indexed Securities” and “Considerations Relating to Securities Denominated or Payable in or Linked to a Non-U.S. Dollar Currency”.

Because we are a holding company, our ability to perform our obligations on the warrants will depend in part on our ability to participate in distributions of assets from our subsidiaries. We discuss these matters above under “Description of Debt Securities We May Offer — We Are a Holding Company”.

Our affiliates may resell warrants in market-making transactions after their initial issuance. We discuss these transactions above under “Description of Debt Securities We May Offer — Information in the Prospectus Supplement — Market-Making Transactions”.

Additional Terms of Warrants

Debt Warrants

If you purchase debt warrants, your prospectus supplement may contain, where applicable, the following additional information about your warrants:

- the designation, aggregate principal amount, currency and terms of the debt securities that may be purchased upon exercise of the debt warrants;
- the exercise price and whether the exercise price may be paid in cash, by the exchange of any debt warrants or other securities or both and the method of exercising the debt warrants; and
- the designation, terms and amount of debt securities, if any, to be issued together with each of the debt warrants and the date, if any, after which the debt warrants and debt securities will be separately transferable.

Universal Warrants

If you purchase universal warrants, your prospectus supplement may contain, where applicable, the following additional information about your warrants:

- whether the universal warrants are put warrants or call warrants, including in either case warrants that may be settled by means of net cash settlement or cashless exercise, or any other type of warrants;
- the money or warrant property, and the amount or method of determining the amount of money or warrant property, payable or deliverable upon exercise of each universal warrant;
- the price at which and the currency with which the warrant property may be purchased or sold by or on behalf of the holder of each universal warrant upon the exercise of that warrant, or the method of determining that price;
- whether the exercise price may be paid in cash, by the exchange of any universal warrants or other securities or both, and the method of exercising the universal warrants; and
- whether the exercise of the universal warrants is to be settled in cash or by delivery of the warrant property or both and whether settlement will occur on a net basis or a gross basis.

General Provisions of Warrant Indenture

We may issue universal warrants under the warrant indenture. Warrants of this kind will not be secured by any property or assets of The Goldman Sachs Group, Inc. or its subsidiaries. Thus, by owning a warrant issued under the indenture, you hold one of our unsecured obligations.

The warrants issued under the indenture will be contractual obligations of The Goldman Sachs Group, Inc. and will rank equally with all of our other unsecured contractual obligations and unsecured and unsubordinated debt. The indenture does not limit our ability to incur additional contractual obligations or debt.

The indenture is a contract between us and The Bank of New York, which will initially act as trustee. The trustee has two main roles:

- First, the trustee can enforce your rights against us if we default. There are some limitations on the extent to which the trustee acts on your behalf, which we describe later under "— Default, Remedies and Waiver of Default".
- Second, the trustee performs administrative duties for us, such as sending you payments and notices.

See "— Our Relationship With the Trustee" below for more information about the trustee.

We May Issue Many Series of Warrants Under the Indenture

We may issue as many distinct series of warrants under the warrant indenture as we wish. This section summarizes terms of the warrants that apply generally to all series. The provisions of the indenture allow us not only to issue warrants with terms different from those of warrants previously issued under the indenture, but also to "reopen" a previously issued series of warrants and issue additional warrants of that series.

Amounts That We May Issue

The warrant indenture does not limit the aggregate number of warrants that we may issue or the number of series or the aggregate amount of any particular series. We may issue warrants and other securities at any time without your consent and without notifying you.

The indenture and the warrants do not limit our ability to incur other contractual obligations or indebtedness or to issue other securities. Also, the terms of the warrants do not impose financial or similar restrictions on us except as described below under "— Restriction on Liens".

Expiration Date and Payment or Settlement Date

The term "expiration date" with respect to any warrant means the date on which the right to exercise the warrant expires. The term "payment or settlement date" with respect to any warrant means the date when any money or warrant property with respect to that warrant becomes payable or deliverable upon exercise or redemption of that warrant in accordance with its terms.

This Section Is Only a Summary

The warrant indenture and its associated documents, including your warrant, contain the full legal text of the matters described in this section and your prospectus supplement. We have filed a copy of the indenture with the SEC as an exhibit to our registration statements. See "Available Information" above for information on how to obtain a copy of it.

This section and your prospectus supplement summarize all the material terms of the indenture and your warrant. They do not, however, describe every aspect of the indenture and your warrant. For example, in this section and your prospectus supplement, we use terms that have been given special meaning in the indenture, but we describe the meaning for only the more important of those terms.

Governing Law

The warrant indenture and the warrants will be governed by New York law.

Currency of Warrants

Amounts that become due and payable on your warrant may be payable in a currency, composite currency, basket of currencies or currency unit or units specified in your prospectus supplement. We refer to this currency, composite currency, basket of currencies or currency unit or units as a "specified currency". The specified currency for your warrant will be U.S. dollars, unless your prospectus supplement states otherwise. You will have to pay for your warrant by delivering the requisite amount of the specified currency to Goldman, Sachs & Co. or another firm that we name in your prospectus supplement, unless other arrangements have been made between you and us or you and that firm. We will make payments on your warrants in the specified currency, except as described below in "— Payment Mechanics for Warrants". See "Considerations Relating to Securities Denominated or Payable in or Linked to a Non-U.S. Dollar Currency" below for more information about risks of investing in warrants of this kind.

Mergers and Similar Transactions

We are generally permitted to merge or consolidate with another corporation or other entity. We are also permitted to sell our assets substantially as an entirety to another corporation or other entity. With regard to any warrant, however, we may not take any of these actions unless all the following conditions are met:

- If the successor entity in the transaction is not The Goldman Sachs Group, Inc., the successor entity must be organized as a corporation, partnership or trust and must expressly assume our obligations under that warrant and the indenture. The successor entity may be organized under the laws of any jurisdiction, whether in the United States or elsewhere.
- Immediately after the transaction, no default under the warrant has occurred and is continuing. For this purpose, "default under the warrant" means an event of default with respect to that warrant or any event that would be an event of default with respect to that warrant if the requirements for giving us default notice and for our default having to continue for a specific period of time were disregarded. We describe these matters below under "— Default, Remedies and Waiver of Default".

If the conditions described above are satisfied with respect to any warrant, we will not need to obtain the approval of the holder of that warrant in order to merge or consolidate or to sell our assets. Also, these conditions will apply only if we wish to merge or consolidate with another entity or sell our assets substantially as an entirety to another entity. We will not need to satisfy these conditions if we enter into other types of transactions, including any transaction in which we acquire the stock or assets of another entity, any transaction that involves a change of control of The Goldman Sachs Group, Inc. but in which we do not merge or consolidate and any transaction in which we sell less than substantially all our assets.

Also, if we merge, consolidate or sell our assets substantially as an entirety and the successor is a non-U.S. entity, neither we nor any successor would have any obligation to compensate you for any resulting adverse tax consequences relating to your warrants.

Restriction on Liens

In the warrant indenture, we promise, with respect to each series of warrants, not to create or guarantee any debt for borrowed money that is secured by a lien on the voting or profit participating equity ownership interests that we or any of our subsidiaries own in Goldman, Sachs & Co., or in any subsidiary that beneficially owns or holds, directly or indirectly, those interests in Goldman, Sachs & Co., unless we also secure the warrants of that series on an equal or priority basis with the secured

debt. Our promise, however, is subject to an important exception: we may secure debt for borrowed money with liens on those interests without securing the warrants of any series if our board of directors determines that the liens do not materially detract from or interfere with the value or control of those interests as of the date of the determination.

Except as noted above, the indenture does not restrict our ability to put liens on our interests in our subsidiaries other than Goldman, Sachs & Co., nor does the indenture restrict our ability to sell or otherwise dispose of our interests in any of our subsidiaries, including Goldman, Sachs & Co. In addition, the restriction on liens in the indenture applies only to liens that secure debt for borrowed money. For example, liens imposed by operation of law, such as liens to secure statutory obligations for taxes or workers' compensation benefits, or liens we create to secure obligations to pay legal judgments or surety bonds, would not be covered by this restriction.

Default, Remedies and Waiver of Default

You will have special rights if an event of default with respect to your warrant occurs and is continuing, as described in this subsection.

Events of Default. Unless your prospectus supplement says otherwise, when we refer to an event of default with respect to any warrant, we mean that, upon satisfaction by the holder of the warrant of all conditions precedent to our relevant obligation or covenant to be satisfied by the holder, any of the following occurs:

- We do not pay any money or deliver any warrant property with respect to that warrant on the payment or settlement date in accordance with the terms of that warrant;
- We remain in breach of our covenant described above under "— Restriction on Liens", or any other covenant we make in the indenture for the benefit of the holder of that warrant for 60 days after we receive a notice of default stating that we are in breach and requiring us to remedy the breach. The notice must be sent by the trustee or the holders of at least 10% in number of the relevant series of warrants;
- We file for bankruptcy or other events of bankruptcy, insolvency or reorganization relating to The Goldman Sachs Group, Inc. occur. Those events must arise under U.S. federal or state law, unless we merge, consolidate or sell our assets as described above and the successor firm is a non-U.S. entity. If that happens, then those events must arise under U.S. federal or state law or the law of the jurisdiction in which the successor firm is legally organized; or
- If the applicable prospectus supplement states that any additional event of default applies to the series, that event of default occurs.

If we do not pay any money or deliver any warrant property when due with respect to a particular warrant of a series, as described in the first bullet point above, that failure to make a payment or delivery will not constitute an event of default with respect to any other warrant of the same series or any other series.

Remedies If an Event of Default Occurs. If an event of default occurs, the trustee will have special duties. In that situation, the trustee will be obligated to use those of its rights and powers under the indenture, and to use the same degree of care and skill in doing so, that a prudent person would use in that situation in conducting his or her own affairs.

Except as described in the prior paragraph, the trustee is not required to take any action under the indenture at the request of any holders unless the holders offer the trustee reasonable protection from expenses and liability. This is called an indemnity. If the trustee is provided with an indemnity reasonably satisfactory to it, the holders of a majority in number of all warrants of the relevant series may direct the time, method and place of conducting any lawsuit or other formal legal action seeking any remedy available to the trustee with respect to that series. These majority holders may also direct

the trustee in performing any other action under the indenture with respect to the warrants of that series.

Before you bypass the trustee and bring your own lawsuit or other formal legal action or take other steps to enforce your rights or protect your interests relating to any warrant, all of the following must occur:

- The holder of your warrant must give the trustee written notice that an event of default has occurred, and the event of default must not have been cured or waived;
- The holders of not less than 25% in number of all warrants of your series must make a written request that the trustee take action because of the default, and they or other holders must offer to the trustee indemnity reasonably satisfactory to the trustee against the cost and other liabilities of taking that action;
- The trustee must not have taken action for 60 days after the above steps have been taken; and
- During those 60 days, the holders of a majority in number of the warrants of your series must not have given the trustee directions that are inconsistent with the written request of the holders of not less than 25% in number of the warrants of your series.

You are entitled at any time to bring a lawsuit for the payment of any money or delivery of any warrant property due on your warrant on or after its payment or settlement date.

Waiver of Default. The holders of not less than a majority in number of the warrants of any series may waive a default for all warrants of that series. If this happens, the default will be treated as if it has not occurred. No one can waive a default in payment of any money or delivery of any warrant property due on any warrant, however, without the approval of the particular holder of that warrant.

We Will Give the Trustee Information About Defaults Annually. We will furnish to the trustee every year a written statement of two of our officers certifying that to their knowledge we are in compliance with the indenture and the warrants issued under it, or else specifying any default under the indenture.

Book-entry and other indirect owners should consult their banks or brokers for information on how to give notice or direction to or make a request of the trustee. Book-entry and other indirect owners are described below under "Legal Ownership and Book-Entry Issuance".

Modification of the Warrant Indenture and Waiver of Covenants

There are three types of changes we can make to the warrant indenture and the warrants of any series issued under that indenture.

Changes Requiring Each Holder's Approval. First, there are changes that cannot be made without the approval of each holder of a warrant affected by the change. Here is a list of those types of changes:

- change the exercise price of the warrant;
- change the terms of any warrant with respect to the payment or settlement date of the warrant;
- reduce the amount of money payable or reduce the amount or change the kind of warrant property deliverable upon the exercise of the warrant or any premium payable upon redemption of the warrant;
- change the currency of any payment on a warrant;
- change the place of payment on a warrant;

- permit redemption of a warrant if not previously permitted;
- impair a holder's right to exercise its warrant, or sue for payment of any money payable or delivery of any warrant property deliverable with respect to its warrant on or after the payment or settlement date or, in the case of redemption, the redemption date;
- if any warrant provides that the holder may require us to repurchase the warrant, impair the holder's right to require repurchase of the warrant;
- reduce the percentage in number of the warrants of any one or more affected series, taken separately or together, as applicable, the approval of whose holders is needed to change the indenture or those warrants;
- reduce the percentage in number of the warrants of any one or more affected series, taken separately or together, as applicable, the consent of whose holders is needed to waive our compliance with the indenture or to waive defaults; and
- change the provisions of the indenture dealing with modification and waiver in any other respect, except to increase any required percentage referred to above or to add to the provisions that cannot be changed or waived without approval of the holder of each affected warrant.

Changes Not Requiring Approval. The second type of change does not require any approval by holders of the warrants of an affected series. These changes are limited to clarifications and changes that would not adversely affect the warrants of that series in any material respect. Nor do we need any approval to make changes that affect only warrants to be issued under the indenture after the changes take effect.

We may also make changes or obtain waivers that do not adversely affect a particular warrant, even if they affect other warrants. In those cases, we do not need to obtain the approval of the holder of that warrant; we need only obtain any required approvals from the holders of the affected warrants.

Changes Requiring Majority Approval. Any other change to the indenture and the warrants issued under the indenture would require the following approval:

- If the change affects only the warrants of a particular series, it must be approved by the holders of a majority in number of the warrants of that series.
- If the change affects the warrants of more than one series issued under the indenture, it must be approved by the holders of a majority in number of all series affected by the change, with the warrants of all the affected series voting together as one class for this purpose.

In each case, the required approval must be given by written consent.

The same majority approval would be required for us to obtain a waiver of any of our covenants in the indenture. Our covenants include the promises we make about merging and putting liens on our interests in Goldman, Sachs & Co., which we describe above under "— Mergers and Similar Transactions" and "— Restriction on Liens". If the holders approve a waiver of a covenant, we will not have to comply with it. The holders, however, cannot approve a waiver of any provision in a particular warrant, or in the indenture as it affects that warrant, that we cannot change without the approval of the holder of that warrant as described above in "— Changes Requiring Each Holder's Approval", unless that holder approves the waiver.

Book-entry and other indirect owners should consult their banks or brokers for information on how approval may be granted or denied if we seek to change the warrant indenture or any warrants or request a waiver.

Special Rules for Action by Holders

When holders take any action under the warrant indenture, such as giving a notice of default, approving any change or waiver or giving the trustee an instruction, we will apply the following rules.

Only Outstanding Warrants Are Eligible. Only holders of outstanding warrants of the applicable series will be eligible to participate in any action by holders of warrants of that series. Also, we will count only outstanding warrants in determining whether the various percentage requirements for taking action have been met. For these purposes, a warrant will not be "outstanding":

- if it has been surrendered for cancellation;
- if it has been called for redemption;
- if we have deposited or set aside, in trust for its holder, money or warrant property for its payment or settlement; or
- if we or one of our affiliates, such as Goldman, Sachs & Co., is the owner.

Determining Record Dates for Action by Holders. We will generally be entitled to set any day as a record date for the purpose of determining the holders that are entitled to take action under the indenture. In certain limited circumstances, only the trustee will be entitled to set a record date for action by holders. If we or the trustee set a record date for an approval or other action to be taken by holders, that vote or action may be taken only by persons or entities who are holders on the record date and must be taken during the period that we specify for this purpose, or that the trustee specifies if it sets the record date. We or the trustee, as applicable, may shorten or lengthen this period from time to time. This period, however, may not extend beyond the 180th day after the record date for the action. In addition, record dates for any global warrant may be set in accordance with procedures established by the depositary from time to time. Accordingly, record dates for global warrants may differ from those for other warrants.

Redemption

We will not be entitled to redeem your warrant before its expiration date unless your prospectus supplement specifies a redemption commencement date.

If your prospectus supplement specifies a redemption commencement date, it will also specify one or more redemption prices. It may also specify one or more redemption periods during which the redemption prices relating to a redemption of warrants during those periods will apply.

If your prospectus supplement specifies a redemption commencement date, your warrant will be redeemable at our option at any time on or after that date or at a specified time or times. If we redeem your warrant, we will do so at the specified redemption price. If different prices are specified for different redemption periods, the price we pay will be the price that applies to the redemption period during which your warrant is redeemed.

If we exercise an option to redeem any warrant, we will give to the holder written notice of the redemption price of the warrant to be redeemed, not less than 30 days nor more than 60 days before the applicable redemption date or within any other period before the applicable redemption date specified in the applicable prospectus supplement. We will give the notice in the manner described below in "— Notices".

We or our affiliates may purchase warrants from investors who are willing to sell from time to time, either in the open market at prevailing prices or in private transactions at negotiated prices. Warrants that we or they purchase may, at our discretion, be held, resold or canceled.

Form, Exchange and Transfer of Warrants

We will issue each warrant in global — *i.e.*, book-entry — form only, unless we say otherwise in the applicable prospectus supplement. Warrants in book-entry form will be represented by a global security registered in the name of a depositary, which will be the holder of all the warrants represented by the global security. Those who own beneficial interests in a global warrant will do so through participants in the depositary's system, and the rights of these indirect owners will be governed solely by the applicable procedures of the depositary and its participants. We describe book-entry securities below under "Legal Ownership and Book-Entry Issuance".

If a warrant is issued as a registered global warrant, only the depositary — *e.g.*, DTC, Euroclear and Clearstream — will be entitled to transfer and exchange the warrant as described in this subsection, since the depositary will be the sole holder of the warrant.

If any warrants cease to be issued in registered global form, they will be issued:

- only in fully registered form; and
- only in the denominations specified in your prospectus supplement.

Holders may exchange their warrants for warrants of smaller denominations or combined into fewer warrants of larger denominations, as long as the total number of warrants is not changed.

Holders may exchange or transfer their warrants at the office of the trustee. They may also replace lost, stolen, destroyed or mutilated warrants at that office. We have appointed the trustee to act as our agent for registering warrants in the names of holders and transferring and replacing warrants. We may, without your approval, appoint another entity to perform these functions or perform them ourselves.

Holders will not be required to pay a service charge to transfer or exchange their warrants, but they may be required to pay for any tax or other governmental charge associated with the transfer or exchange. The transfer or exchange, and any replacement, will be made only if our transfer agent is satisfied with the holder's proof of legal ownership. The transfer agent may require an indemnity before replacing any warrants.

If we have the right to redeem, accelerate or settle any warrants before their expiration, and we exercise our right as to less than all those warrants, we may block the transfer or exchange of those warrants during the period beginning 15 days before the day we mail the notice of exercise and ending on the day of that mailing or during any other period specified in the applicable prospectus supplement, in order to freeze the list of holders to prepare the mailing. We may also refuse to register transfers of or exchange any warrant selected for early settlement, except that we will continue to permit transfers and exchanges of the unsettled portion of any warrant being partially settled.

If we have designated additional transfer agents for your warrant, they will be named in your prospectus supplement. We may, without your approval, appoint additional transfer agents or cancel the appointment of any particular transfer agent. We may also approve a change in the office through which any transfer agent acts.

The rules for exchange described above apply to exchange of warrants for other warrants of the same series and kind. If a warrant is exercisable for a different kind of security, such as one that we have not issued, or for other property, the rules governing that type of exercise will be described in the applicable prospectus supplement.

Payment Mechanics for Warrants

Who Receives Payment? If money is due on a warrant at its payment or settlement date, we will pay the amount to the holder of the warrant against surrender of the warrant at a proper place of

payment or, in the case of a global warrant, in accordance with the applicable policies of the depositary, Euroclear and Clearstream, as applicable.

How We Will Make Payments Due in U.S. Dollars. We will follow the practice described in this subsection when paying amounts due in U.S. dollars. Payments of amounts due in other currencies will be made as described in the next subsection.

- ***Payments on Global Warrants.*** We will make payments on a global warrant in accordance with the applicable policies of the depositary as in effect from time to time. Under those policies, we will pay directly to the depositary, or its nominee, and not to any indirect owners who own beneficial interests in the global warrant. An indirect owner's right to receive those payments will be governed by the rules and practices of the depositary and its participants, as described in the section entitled "Legal Ownership and Book-Entry Issuance — What Is a Global Security?".

- ***Payments on Non-Global Warrants.*** We will make payments on a warrant in non-global, registered form as follows. We will make all payments by check at the paying agent described below, against surrender of the warrant. All payments by check will be made in next-day funds — *i.e.*, funds that become available on the day after the check is cashed.

  Alternatively, if a non-global warrant has an original issue price of at least $1,000,000 and the holder asks us to do so, we will pay any amount that becomes due on the warrant by wire transfer of immediately available funds to an account at a bank in New York City, on the payment or settlement date. To request wire payment, the holder must give the paying agent appropriate wire transfer instructions at least five business days before the requested wire payment is due. Payment will be made only after the warrant is surrendered to the paying agent.

Book-entry and other indirect owners should consult their banks or brokers for information on how they will receive payments on their warrants.

How We Will Make Payments Due in Other Currencies. We will follow the practice described in this subsection when paying amounts that are due in a specified currency other than U.S. dollars.

Payments on Global Warrants. We will make payments on a global warrant in the applicable specified currency in accordance with the applicable policies as in effect from time to time of the depositary, which may be DTC, Euroclear or Clearstream. Unless we specify otherwise in the applicable prospectus supplement, The Depository Trust Company, New York, New York, known as DTC, will be the depositary for all warrants in global form.

Indirect owners of a global warrant denominated in a currency other than U.S. dollars should consult their banks or brokers for information on how to request payment in the specified currency in cases where holders have a right to do so.

Payments on Non-Global Warrants. Except as described in the last paragraph under this heading, we will make payments on warrants in non-global form in the applicable specified currency. We will make these payments by wire transfer of immediately available funds to any account that is maintained in the applicable specified currency at a bank designated by the holder and is acceptable to us and the trustee. To designate an account for wire payment, the holder must give the paying agent appropriate wire instructions at least five business days before the requested wire payment is due. The payment will be made only after the warrant is surrendered to the paying agent.

If a holder fails to give instructions as described above, we will notify the holder at the address in the trustee's records and will make the payment within five business days after the holder provides appropriate instructions. Any late payment made in these circumstances will be treated under the

indenture as if made on the payment or settlement date, and no interest will accrue on the late payment from the payment or settlement date to the date paid.

Although a payment on a warrant in non-global form may be due in a specified currency other than U.S. dollars, we will make the payment in U.S. dollars if your prospectus supplement specifies that holders may ask us to do so and you make such a request. To request U.S. dollar payment in these circumstances, the holder must provide appropriate written notice to the trustee at least five business days before the payment or settlement date for which payment in U.S. dollars is requested.

Book-entry and other indirect owners of a warrant with a specified currency other than U.S. dollars should contact their banks or brokers for information about how to receive payments in the specified currency or in U.S. dollars.

Conversion to U.S. Dollars. Unless otherwise indicated in your prospectus supplement, holders are not entitled to receive payments in U.S. dollars of an amount due in another currency, either on a global warrant or a non-global warrant.

If your prospectus supplement specifies that holders may request that we make payments in U.S. dollars of an amount due in another currency, the exchange rate agent described below will calculate the U.S. dollar amount the holder receives in the exchange rate agent's discretion. A holder that requests payment in U.S. dollars will bear all associated currency exchange costs, which will be deducted from the payment.

When the Specified Currency Is Not Available. If we are obligated to make any payment in a specified currency other than U.S. dollars, and the specified currency or any successor currency is not available to us due to circumstances beyond our control — such as the imposition of exchange controls or a disruption in the currency markets — we will be entitled to satisfy our obligation to make the payment in that specified currency by making the payment in U.S. dollars, on the basis of the exchange rate determined by the exchange rate agent described below, in its discretion.

The foregoing will apply to any warrant, whether in global or non-global form, and to any payment, including a payment at the payment or settlement date. Any payment made under the circumstances and in a manner described above will not result in a default under any warrant or the indenture.

Exchange Rate Agent. If we issue a warrant in a specified currency other than U.S. dollars, we will appoint a financial institution to act as the exchange rate agent and will name the institution initially appointed when the warrant is originally issued in the applicable prospectus supplement. We may select Goldman, Sachs & Co. or another of our affiliates to perform this role. We may change the exchange rate agent from time to time after the original issue date of the warrant without your consent and without notifying you of the change.

All determinations made by the exchange rate agent will be in its sole discretion unless we state in the applicable prospectus supplement that any determination requires our approval. In the absence of manifest error, those determinations will be conclusive for all purposes and binding on you and us, without any liability on the part of the exchange rate agent.

Payment When Offices Are Closed. If any payment or delivery of warrant property is due on a warrant on a day that is not a business day, we will make the payment or delivery on the next day that is a business day. Payments or deliveries postponed to the next business day in this situation will be treated under the indenture as if they were made on the original payment or settlement date. Postponement of this kind will not result in a default under any warrant or the indenture, and no interest will accrue on the postponed amount from the original payment or settlement date to the next day that is a business day.

The term "business day" means, for any warrant, a day that meets all the following applicable requirements:

- for all warrants, is a Monday, Tuesday, Wednesday, Thursday or Friday that is not a day on which banking institutions in New York City are authorized or obligated by law or executive order to close and that satisfies any other criteria specified in your prospectus supplement;
- if the warrant has a specified currency other than U.S. dollars or euros, is also a day on which banking institutions are not authorized or obligated by law, regulation or executive order to close in the principal financial center of the country issuing the specified currency;
- if the warrant is held through Euroclear, is also not a day on which banking institutions in Brussels, Belgium are generally authorized or obligated by law, regulation or executive order to close; and
- if the warrant is held through Clearstream, is also not a day on which banking institutions in Luxembourg are generally authorized or obligated by law, regulation or executive order to close.

Paying Agent. We may appoint one or more financial institutions to act as our paying agents, at whose designated offices warrants in non-global form may be surrendered for payment at their payment or settlement date. We call each of those offices a paying agent. We may add, replace or terminate paying agents from time to time. We may also choose to act as our own paying agent. Initially, we have appointed the trustee, at its corporate trust office in New York City, as the paying agent. We must notify the trustee of changes in the paying agents.

Unclaimed Payments. Regardless of who acts as paying agent, all money paid or warrant property delivered by us to a paying agent that remains unclaimed at the end of two years after the amount is due to a holder will be repaid or redelivered to us. After that two-year period, the holder may look only to us for payment of any money or delivery of any warrant property, and not to the trustee, any other paying agent or anyone else.

Notices

Notices to be given to holders of a global warrant will be given only to the depositary, in accordance with its applicable policies as in effect from time to time. Notices to be given to holders of warrants not in global form will be sent by mail to the respective addresses of the holders as they appear in the trustee's records, and will be deemed given when mailed. Neither the failure to give any notice to a particular holder, nor any defect in a notice given to a particular holder, will affect the sufficiency of any notice given to another holder.

Book-entry and other indirect owners should consult their banks or brokers for information on how they will receive notices.

Our Relationship With the Trustee

The Bank of New York has provided commercial banking and other services for us and our affiliates in the past and may do so in the future. Among other things, The Bank of New York provides us with a line of credit, holds debt securities issued by us and serves as trustee or agent with regard to other warrants and debt obligations of The Goldman Sachs Group, Inc. or its subsidiaries.

The Bank of New York is initially serving as the trustee for the warrants issued under the warrant indenture and for our senior debt securities and subordinated debt securities. Consequently, if an actual or potential event of default occurs with respect to any of these securities, the trustee may be considered to have a conflicting interest for purposes of the Trust Indenture Act of 1939. In that case, the trustee may be required to resign under one or more of the indentures, and we would be required to appoint a successor trustee. For this purpose, a "potential" event of default means an event that

would be an event of default if the requirements for giving us default notice or for the default having to exist for a specific period of time were disregarded.

General Provisions of Warrant Agreements

We may issue debt warrants and some universal warrants in one or more series under one or more warrant agreements, each to be entered into between us and a bank, trust company or other financial institution as warrant agent. We may add, replace or terminate warrant agents from time to time. We may also choose to act as our own warrant agent. We will describe the warrant agreement under which we issue any warrants in the applicable prospectus supplement, and we will file that agreement with the SEC, either as an exhibit to an amendment to the registration statements of which this prospectus is a part or as an exhibit to a current report on Form 8-K. See "Available Information" above for information on how to obtain a copy of a warrant agreement when it is filed.

We may also issue universal warrants under the warrant indenture. For these warrants, the applicable provisions of the warrant indenture described above would apply instead of the provisions described in this section.

Enforcement of Rights

The warrant agent under a warrant agreement will act solely as our agent in connection with the warrants issued under that agreement. The warrant agent will not assume any obligation or relationship of agency or trust for or with any holders of those warrants. Any holder of warrants may, without the consent of any other person, enforce by appropriate legal action, on its own behalf, its right to exercise those warrants in accordance with their terms. No holder of any warrant will be entitled to any rights of a holder of the debt securities or warrant property purchasable upon exercise of the warrant, including any right to receive payments on those debt securities or warrant property or to enforce any covenants or rights in the relevant indenture or any other agreement.

Modifications Without Consent of Holders

We and the applicable warrant agent may amend any warrant or warrant agreement without the consent of any holder:

- to cure any ambiguity;
- to cure, correct or supplement any defective or inconsistent provision; or
- to make any other change that we believe is necessary or desirable and will not adversely affect the interests of the affected holders in any material respect.

We do not need any approval to make changes that affect only warrants to be issued after the changes take effect. We may also make changes that do not adversely affect a particular warrant in any material respect, even if they adversely affect other warrants in a material respect. In those cases, we do not need to obtain the approval of the holder of the unaffected warrant; we need only obtain any required approvals from the holders of the affected warrants.

Modifications with Consent of Holders

We may not amend any particular warrant or a warrant agreement with respect to any particular warrant unless we obtain the consent of the holder of that warrant, if the amendment would:

- change the exercise price of the warrant;
- change the kind or reduce the amount of the warrant property or other consideration receivable upon exercise, cancellation or expiration of the warrant;
- shorten, advance or defer the period of time during which the holder may exercise the warrant or otherwise impair the holder's right to exercise the warrant; or

- reduce the percentage of outstanding, unexpired warrants of any series or class the consent of whose holders is required to amend the series or class, or the applicable warrant agreement with regard to that series or class, as described below.

Any other change to a particular warrant agreement and the warrants issued under that agreement would require the following approval:

- If the change affects only the warrants of a particular series issued under that agreement, the change must be approved by the holders of a majority of the outstanding, unexpired warrants of that series.
- If the change affects the warrants of more than one series issued under that agreement, the change must be approved by the holders of a majority of all outstanding, unexpired warrants of all series affected by the change, with the warrants of all the affected series voting together as one class for this purpose.

In each case, the required approval must be given in writing.

Warrant Agreement Will Not Be Qualified Under Trust Indenture Act

No warrant agreement will be qualified as an indenture, and no warrant agent will be required to qualify as a trustee, under the Trust Indenture Act. Therefore, holders of warrants issued under a warrant agreement will not have the protection of the Trust Indenture Act with respect to their warrants.

Mergers and Similar Transactions Permitted; No Restrictive Covenants or Events of Default

The warrant agreements and any warrants issued under the warrant agreements will not restrict our ability to merge or consolidate with, or sell our assets to, another corporation or other entity or to engage in any other transactions. If at any time we merge or consolidate with, or sell our assets substantially as an entirety to, another corporation or other entity, the successor entity will succeed to and assume our obligations under the warrants and warrant agreements. We will then be relieved of any further obligation under the warrants and warrant agreements.

The warrant agreements and any warrants issued under the warrant agreements will not include any restrictions on our ability to put liens on our assets, including our interests in our subsidiaries, nor will they restrict our ability to sell our assets. The warrant agreements and any warrants issued under the warrant agreements also will not provide for any events of default or remedies upon the occurrence of any events of default.

Governing Law

Each warrant agreement and any warrants issued under the warrant agreements will be governed by New York law.

Form, Exchange and Transfer

We will issue each warrant in global — *i.e.*, book-entry — form only, unless we specify otherwise in the applicable prospectus supplement. Warrants in book-entry form will be represented by a global security registered in the name of a depositary, which will be the holder of all the warrants represented by the global security. Those who own beneficial interests in a global warrant will do so through participants in the depositary's system, and the rights of these indirect owners will be governed solely by the applicable procedures of the depositary and its participants. We describe book-entry securities below under "Legal Ownership and Book-Entry Issuance".

In addition, we will issue each warrant in registered form, unless we say otherwise in the applicable prospectus supplement. Bearer securities would be subject to special provisions, as we describe below under "Considerations Relating to Securities Issued in Bearer Form".

If any warrants are issued in non-global form, the following will apply to them:

The warrants will be issued in fully registered form in denominations stated in the applicable prospectus supplement. Holders may exchange their warrants for warrants of smaller denominations or combined into fewer warrants of larger denominations, as long as the total number of warrants is not changed.

Holders may exchange or transfer their warrants at the office of the warrant agent. They may also replace lost, stolen, destroyed or mutilated warrants at that office. We may appoint another entity to perform these functions or perform them ourselves.

Holders will not be required to pay a service charge to transfer or exchange their warrants, but they may be required to pay any tax or other governmental charge associated with the transfer or exchange. The transfer or exchange, and any replacement, will be made only if our transfer agent is satisfied with the holder's proof of legal ownership. The transfer agent may also require an indemnity before replacing any warrants.

If we have the right to redeem, accelerate or settle any warrants before their expiration, and we exercise our right as to less than all those warrants, we may block the transfer or exchange of those warrants during the period beginning 15 days before the day we mail the notice of exercise and ending on the day of that mailing, in order to freeze the list of holders to prepare the mailing. We may also refuse to register transfers of or exchange any warrant selected for early settlement, except that we will continue to permit transfers and exchanges of the unsettled portion of any warrant being partially settled.

Only the depositary will be entitled to transfer or exchange a warrant in global form, since it will be the sole holder of the warrant.

Payments and Notices

In making payments and giving notices with respect to our warrants issued under warrant agreements, we will follow the procedures we plan to use with respect to our warrants issued under the warrant indenture, where applicable. We describe these procedures above under "— General Provisions of Warrant Indenture — Payment Mechanics for Warrants" and "— Notices".

Calculation Agent

Calculations relating to warrants will be made by the calculation agent, an institution that we appoint as our agent for this purpose. That institution may include any affiliate of ours, such as Goldman, Sachs & Co. The prospectus supplement for a particular warrant will name the institution that we have appointed to act as the calculation agent for that warrant as of its original issue date. We may appoint a different institution to serve as calculation agent from time to time after the original issue date of the warrant without your consent and without notifying you of the change.

The calculation agent's determination of any amount of money payable or warrant property deliverable with respect to a warrant will be final and binding in the absence of manifest error.

All percentages resulting from any calculation relating to a warrant will be rounded upward or downward, as appropriate, to the next higher or lower one hundred-thousandth of a percentage point, e.g., 9.876541% (or .09876541) being rounded down to 9.87654% (or .0987654) and 9.876545% (or .09876545) being rounded up to 9.87655% (or .0987655). All amounts used in or resulting from any calculation relating to a warrant will be rounded upward or downward, as appropriate, to the nearest cent, in the case of U.S. dollars, or to the nearest corresponding hundredth of a unit, in the case of a currency other than U.S. dollars, with one-half cent or one-half of a corresponding hundredth of a unit or more being rounded upward.

DESCRIPTION OF PURCHASE CONTRACTS WE MAY OFFER

Please note that in this section entitled "Description of Purchase Contracts We May Offer", references to "The Goldman Sachs Group, Inc.", "we", "our" and "us" refer only to The Goldman Sachs Group, Inc. and not to its consolidated subsidiaries. Also, in this section, references to "holders" mean those who own purchase contracts registered in their own names, on the books that we or our agent maintain for this purpose, and not those who own beneficial interests in purchase contracts registered in street name or in purchase contracts issued in book-entry form through one or more depositaries. Owners of beneficial interests in the purchase contracts should read the section below entitled "Legal Ownership and Book-Entry Issuance".

Purchase Contract Property

We may issue purchase contracts for the purchase or sale of, or whose cash value is determined by reference or linked to the performance, level or value of, one or more of the following:

- securities of one or more issuers, including our common or preferred stock or other securities described in this prospectus or debt or equity securities of third parties;
- one or more currencies;
- one or more commodities;
- any other financial, economic or other measure or instrument, including the occurrence or non-occurrence of any event or circumstance; and
- one or more indices or baskets of the items described above.

We refer to each property described above as a "purchase contract property". Each purchase contract will obligate:

- the holder to purchase or sell, and obligate us to sell or purchase, on specified dates, one or more purchase contract properties at a specified price or prices; or
- the holder or us to settle the purchase contract by reference to the value, performance or level of one or more purchase contract properties, on specified dates and at a specified price or prices.

Some purchase contracts may include multiple obligations to purchase or sell different purchase contract properties, and both we and the holder may be sellers or buyers under the same purchase contract. No holder of a purchase contract will have any rights of a holder of the purchase contract property purchasable under the contract, including any right to receive payments on that property.

An investment in purchase contracts may involve special risks, including risks associated with indexed securities and currency-related risks if the purchase contract or purchase contract property is linked to an index or is payable in or otherwise linked to a non-U.S. dollar currency. We describe some of these risks below under "Considerations Relating to Indexed Securities" and "Considerations Relating to Securities Denominated or Payable in or Linked to a Non-U.S. Dollar Currency".

Because we are a holding company, our ability to perform our obligations on the purchase contracts will depend in part on our ability to participate in distributions of assets from our subsidiaries. We discuss these matters above under "Description of Debt Securities We May Offer — We Are a Holding Company".

Our affiliates may resell purchase contracts after their initial issuance in market-making transactions. We describe these transactions above under "Description of Debt Securities We May Offer — Information in the Prospectus Supplement — Market-Making Transactions".

We May Issue Many Series of Purchase Contracts

We may issue purchase contracts in such amounts and in as many distinct series as we wish. We may also "reopen" a previously issued series of purchase contracts and issue additional purchase contracts of that series. In addition, we may issue a purchase contract separately or as part of a unit, as described below under "Description of Units We May Offer".

This section summarizes terms of the purchase contracts that apply generally to all purchase contracts. We describe most of the financial and other specific terms of your purchase contract in the prospectus supplement accompanying this prospectus. Those terms may vary from the terms described here.

As you read this section, please remember that the specific terms of your purchase contract as described in your prospectus supplement will supplement and, if applicable, may modify or replace the general terms described in this section. If there are differences between your prospectus supplement and this prospectus, your prospectus supplement will control. Thus, the statements we make in this section may not apply to your purchase contract.

When we refer to a series of purchase contracts, we mean all the purchase contracts issued as part of the same series under the applicable governing instrument. When we refer to your prospectus supplement, we mean the prospectus supplement describing the specific terms of the purchase contract you purchase. The terms used in your prospectus supplement will have the meanings described in this prospectus, unless otherwise specified.

Prepaid Purchase Contracts; Applicability of Debt Indenture

Some purchase contracts may require the holders to satisfy their obligations under the contracts at the time the contracts are issued. We refer to those contracts as "prepaid purchase contracts". Our obligation to settle a prepaid purchase contract on the relevant settlement date will be one of our senior debt securities or subordinated debt securities, which are described above under "Description of Debt Securities We May Offer". Prepaid purchase contracts will be issued under the applicable debt indenture, and the provisions of that indenture will govern those contracts.

Non-Prepaid Purchase Contracts; No Trust Indenture Act Protection

Some purchase contracts do not require the holders to satisfy their obligations under the contracts until settlement. We refer to those contracts as "non-prepaid purchase contracts". The holder of a non-prepaid purchase contract may remain obligated to perform under the contract for a substantial period of time.

Non-prepaid purchase contracts will be issued under a unit agreement, if they are issued in units, or under some other document, if they are not. We describe unit agreements generally under "Description of Units We May Offer" below. We will describe the particular governing document that applies to your non-prepaid purchase contracts in the applicable prospectus supplement.

Non-prepaid purchase contracts will not be senior debt securities or subordinated debt securities and will not be issued under one of our indentures, unless we say otherwise in the applicable prospectus supplement. Consequently, no governing documents for non-prepaid purchase contracts will be qualified as indentures, and no third party will be required to qualify as a trustee with regard to those contracts, under the Trust Indenture Act. Holders of non-prepaid purchase contracts will not have the protection of the Trust Indenture Act with respect to those contracts.

General Terms of Purchase Contracts

Your prospectus supplement may contain, where applicable, the following information about your purchase contract:

- whether the purchase contract obligates the holder to purchase or sell, or both purchase and sell, one or more purchase contract properties and the nature and amount of each of those properties, or the method of determining those amounts;
- whether the purchase contract is to be prepaid or not and the governing document for the contract;
- whether the purchase contract is to be settled by delivery, or by reference or linkage to the value, performance or level of, the purchase contract properties;
- any acceleration, cancellation, termination or other provisions relating to the settlement of the purchase contract;
- whether the purchase contract will be issued as part of a unit and, if so, the other securities comprising the unit and whether any unit securities will be subject to a security interest in our favor as described below; and
- whether the purchase contract will be issued in fully registered or bearer form and in global or non-global form.

If we issue a purchase contract as part of a unit, the accompanying prospectus supplement will state whether the contract will be separable from the other securities in the unit before the contract settlement date. A purchase contract issued in a unit in the United States may not be so separated before the 91st day after the unit is issued.

Additional Terms of Non-Prepaid Purchase Contracts

In addition to the general terms described above, a non-prepaid purchase contract may include the following additional terms.

Pledge by Holders to Secure Performance

If we say so in the applicable prospectus supplement, the holder's obligations under the purchase contract and governing document will be secured by collateral. In that case, the holder, acting through the unit agent as its attorney-in-fact, if applicable, will pledge the items described below to a collateral agent named in the prospectus supplement, which will hold them, for our benefit, as collateral to secure the holder's obligations. We refer to this as the "pledge" and all the items described below as the "pledged items". The pledge will create a security interest in the holder's entire interest in and to:

- any other securities included in the unit, if the purchase contract is part of a unit, and/or any other property specified in the applicable prospectus supplement;
- all additions to and substitutions for the pledged items;
- all income, proceeds and collections received in respect of the pledged items; and
- all powers and rights owned or acquired later with respect to the pledged items.

The collateral agent will forward all payments and proceeds from the pledged items to us, unless the payments and proceeds have been released from the pledge in accordance with the purchase contract and the governing document. We will use the payments and proceeds from the pledged items to satisfy the holder's obligations under the purchase contract.

Settlement of Purchase Contracts That Are Part of Units

The following will apply to a non-prepaid purchase contract that is issued together with any of our debt securities as part of a unit. If the holder fails to satisfy its obligations under the purchase contract, the unit agent may apply the principal payments on the debt securities to satisfy those obligations as provided in the governing document. If the holder is permitted to settle its obligations by cash payment, the holder may be permitted to do so by delivering the debt securities in the unit to the unit agent as provided in the governing document.

Book-entry and other indirect owners should consult their banks or brokers for information on how to settle their purchase contracts.

Failure of Holder to Perform Obligations

If the holder fails to settle its obligations under a non-prepaid purchase contract as required, the holder will not receive the purchase contract property or other consideration to be delivered at settlement. Holders that fail to make timely settlement may also be obligated to pay interest or other amounts.

Assumption of Obligations by Transferee

When the holder of a non-prepaid purchase contract transfers the purchase contract to a new holder, the new holder will assume the obligations of the prior holder with respect to the purchase contract, and the prior holder will be released from those obligations. Under the non-prepaid purchase contract, we will consent to the transfer of the purchase contract, to the assumption of those obligations by the new holder and to the release of the prior holder, if the transfer is made in accordance with the provisions of the purchase contract.

Mergers and Similar Transactions Permitted; No Restrictive Covenants or Events of Default

Purchase contracts that are not prepaid will not restrict our ability to merge or consolidate with, or sell our assets to, another corporation or other entity or to engage in any other transactions. If at any time we merge or consolidate with, or sell our assets substantially as an entirety to, another corporation or other entity, the successor entity will succeed to and assume our obligations under these purchase contracts. We will then be relieved of any further obligation under these purchase contracts.

Purchase contracts that are not prepaid will not include any restrictions on our ability to put liens on our assets, including our interests in our subsidiaries, nor will they restrict our ability to sell our assets. These purchase contracts also will not provide for any events of default or remedies upon the occurrence of any events of default.

Governing Law

The purchase contracts and any governing documents will be governed by New York law.

Form, Exchange and Transfer

We will issue each purchase contract in global — *i.e.*, book-entry — form only, unless we specify otherwise in the applicable prospectus supplement. Purchase contracts in book-entry form will be represented by a global security registered in the name of a depositary, which will be the holder of all the purchase contracts represented by the global security. Those who own beneficial interests in a purchase contract will do so through participants in the depositary's system, and the rights of these indirect owners will be governed solely by the applicable procedures of the depositary and its

participants. We describe book-entry securities below under “Legal Ownership and Book-Entry Issuance”.

In addition, we will issue each purchase contract in registered form, unless we say otherwise in the applicable prospectus supplement. Bearer securities would be subject to special provisions, as we describe below under “Considerations Relating to Securities Issued in Bearer Form”.

If any purchase contracts are issued in non-global form, the following will apply to them:

- The purchase contracts will be issued in fully registered form in denominations stated in the applicable prospectus supplement. Holders may exchange their purchase contracts for contracts of smaller denominations or combined into fewer contracts of larger denominations, as long as the total amount is not changed.
- Holders may exchange or transfer their purchase contracts at the office of the trustee, unit agent or other agent we name in the applicable prospectus supplement. Holders may also replace lost, stolen, destroyed or mutilated purchase contracts at that office. We may appoint another entity to perform these functions or perform them ourselves.
- Holders will not be required to pay a service charge to transfer or exchange their purchase contracts, but they may be required to pay for any tax or other governmental charge associated with the transfer or exchange. The transfer or exchange, and any replacement, will be made only if our transfer agent is satisfied with the holder’s proof of legal ownership. The transfer agent may also require an indemnity before replacing any purchase contracts.
- If we have the right to redeem, accelerate or settle any purchase contracts before their maturity, and we exercise our right as to less than all those purchase contracts, we may block the transfer or exchange of those purchase contracts during the period beginning 15 days before the day we mail the notice of exercise and ending on the day of that mailing, in order to freeze the list of holders to prepare the mailing. We may also refuse to register transfers of or exchange any purchase contract selected for early settlement, except that we will continue to permit transfers and exchanges of the unsettled portion of any purchase contract being partially settled.

Only the depositary will be entitled to transfer or exchange a purchase contract in global form, since it will be the sole holder of the purchase contract.

Payments and Notices

In making payments and giving notices with respect to purchase contracts, we will follow the procedures we plan to use with respect to our debt securities, when applicable. We describe these procedures above under “Description of Debt Securities We May Offer — Payment Mechanics for Debt Securities” and “Description of Debt Securities We May Offer — Notices”.

DESCRIPTION OF UNITS WE MAY OFFER

Please note that in this section entitled "Description of Units We May Offer", references to "The Goldman Sachs Group, Inc.", "we", "our" and "us" refer only to The Goldman Sachs Group, Inc. and not to its consolidated subsidiaries. Also, in this section, references to "holders" mean those who own units registered in their own names, on the books that we or our agent maintain for this purpose, and not those who own beneficial interests in units registered in street name or in units issued in book-entry form through one or more depositaries. Owners of beneficial interests in the units should read the section below entitled "Legal Ownership and Book-Entry Issuance".

We may issue units comprised of one or more debt securities, warrants, purchase contracts, shares of preferred stock, depositary shares and capital securities, as well as debt or equity securities of third parties, in any combination. Each unit will be issued so that the holder of the unit is also the holder of each security included in the unit. Thus, the holder of a unit will have the rights and obligations of a holder of each included security. The unit agreement under which a unit is issued may provide that the securities included in the unit may not be held or transferred separately, at any time or at any time before a specified date.

The applicable prospectus supplement may describe:

- the designation and terms of the units and of the securities comprising the units, including whether and under what circumstances those securities may be held or transferred separately;
- any provisions of the governing unit agreement that differ from those described below; and
- any provisions for the issuance, payment, settlement, transfer or exchange of the units or of the securities comprising the units.

The provisions described in this section, as well as those described under "Description of Debt Securities We May Offer", "Description of Warrants We May Offer", "Description of Purchase Contracts We May Offer", "Description of Preferred Stock We May Offer", and "Description of Capital Securities and Related Instruments", will apply to the securities included in each unit, to the extent relevant.

An investment in units may involve special risks, including risks associated with indexed securities and currency-related risks if the securities comprising the units are linked to an index or are payable in or otherwise linked to a non-U.S. dollar currency. We describe some of these risks below under "Considerations Relating to Indexed Securities" and "Considerations Relating to Securities Denominated or Payable in or Linked to a Non-U.S. Dollar Currency".

Our affiliates may resell units after their initial issuance in market-making transactions. We discuss these transactions above under "Description of Debt Securities We May Offer — Information in the Prospectus Supplement — Market-Making Transactions".

We May Issue Many Series of Units

We may issue units in such amounts and in as many distinct series as we wish. We may also "reopen" a previously issued series of units and issue additional units of that series. This section summarizes terms of the units that apply generally to all series. We describe most of the financial and other specific terms of your series in the prospectus supplement accompanying this prospectus. Those terms may vary from the terms described here.

As you read this section, please remember that the specific terms of your unit as described in your prospectus supplement will supplement and, if applicable, may modify or replace the general terms described in this section. If there are differences between your prospectus supplement and this prospectus, your prospectus supplement will control. Thus, the statements we make in this section may not apply to your unit.

When we refer to a series of units, we mean all units issued as part of the same series under the applicable unit agreement. We will identify the series of which your units are a part in your prospectus supplement. When we refer to your prospectus supplement, we mean the prospectus supplement describing the specific terms of the units you purchase. The terms used in your prospectus supplement will have the meanings described in this prospectus, unless otherwise specified.

Unit Agreements: Prepaid, Non-Prepaid and Other

We will issue the units under one or more unit agreements to be entered into between us and a bank or other financial institution, as unit agent. We may add, replace or terminate unit agents from time to time. We may also choose to act as our own unit agent, and we may select Goldman, Sachs & Co. or another of our affiliates to perform this role. We will identify the unit agreement under which your units will be issued and the unit agent under that agreement in your prospectus supplement.

If a unit includes one or more purchase contracts and all those purchase contracts are prepaid purchase contracts, we will issue the unit under a "prepaid unit agreement". Prepaid unit agreements will reflect the fact that the holders of the related units have no further obligations under the purchase contracts included in their units. If a unit includes one or more non-prepaid purchase contracts, we will issue the unit under a "non-prepaid unit agreement". Non-prepaid unit agreements will reflect the fact that the holders have payment or other obligations under one or more of the purchase contracts comprising their units. We may also issue units under other kinds of unit agreements, which we will describe in the applicable prospectus supplement. In some cases, we may issue units under one of our indentures.

A unit agreement may also serve as the governing document for a security included in a unit. For example, a non-prepaid purchase contract that is part of a unit may be issued under and governed by the relevant unit agreement.

In this prospectus, we refer to prepaid unit agreements, non-prepaid unit agreements and other unit agreements, generally, as "unit agreements". We will file the unit agreement under which we issue your units with the SEC, either as an exhibit to an amendment to the registration statements of which this prospectus is a part or as an exhibit to a current report on Form 8-K. See "Available Information" above for information on how to obtain a copy of a unit agreement when it is filed.

General Provisions of a Unit Agreement

This following provisions will generally apply to all unit agreements unless otherwise stated in the applicable prospectus supplement.

Enforcement of Rights

The unit agent under a unit agreement will act solely as our agent in connection with the units issued under that agreement. The unit agent will not assume any obligation or relationship of agency or trust for or with any holders of those units or of the securities comprising those units. The unit agent will not be obligated to take any action on behalf of those holders to enforce or protect their rights under the units or the included securities.

Except as described in the next paragraph, a holder of a unit may, without the consent of the unit agent or any other holder, enforce its rights as holder under any security included in the unit, in accordance with the terms of that security and the indenture, warrant agreement, unit agreement or trust agreement under which that security is issued. Those terms are described elsewhere in this prospectus under the sections relating to debt securities, warrants, purchase contracts and capital securities.

Notwithstanding the foregoing, a unit agreement may limit or otherwise affect the ability of a holder of units issued under that agreement to enforce its rights, including any right to bring a legal action, with respect to those units or any securities, other than debt securities, prepaid purchase contracts, warrants issued under the warrant indenture and capital securities, that are included in those units. Limitations of this kind will be described in the applicable prospectus supplement.

Modification Without Consent of Holders

We and the applicable unit agent may amend any unit or unit agreement without the consent of any holder:

- to cure any ambiguity;
- to correct or supplement any defective or inconsistent provision; or
- to make any other change that we believe is necessary or desirable and will not adversely affect the interests of the affected holders in any material respect.

We do not need any approval to make changes that affect only units to be issued after the changes take effect. We may also make changes that do not adversely affect a particular unit in any material respect, even if they adversely affect other units in a material respect. In those cases, we do not need to obtain the approval of the holder of the unaffected unit; we need only obtain any required approvals from the holders of the affected units.

The foregoing applies also to any security issued under a unit agreement, as the governing document.

Modification With Consent of Holders

We may not amend any particular unit or a unit agreement with respect to any particular unit unless we obtain the consent of the holder of that unit, if the amendment would:

- impair any right of the holder to exercise or enforce any right under a security included in the unit if the terms of that security require the consent of the holder to any changes that would impair the exercise or enforcement of that right;
- impair the right of the holder to purchase or sell, as the case may be, the purchase contract property under any non-prepaid purchase contract issued under the unit agreement, or to require delivery of or payment for that property when due; or
- reduce the percentage of outstanding units of any series or class the consent of whose holders is required to amend that series or class, or the applicable unit agreement with respect to that series or class, as described below.

Any other change to a particular unit agreement and the units issued under that agreement would require the following approval:

- If the change affects only the units of a particular series issued under that agreement, the change must be approved by the holders of a majority of the outstanding units of that series.
- If the change affects the units of more than one series issued under that agreement, it must be approved by the holders of a majority of all outstanding units of all series affected by the change, with the units of all the affected series voting together as one class for this purpose.

These provisions regarding changes with majority approval also apply to changes affecting any securities issued under a unit agreement, as the governing document.

In each case, the required approval must be given by written consent.

Unit Agreements Will Not Be Qualified Under Trust Indenture Act

No unit agreement will be qualified as an indenture, and no unit agent will be required to qualify as a trustee, under the Trust Indenture Act. Therefore, holders of units issued under unit agreements will not have the protections of the Trust Indenture Act with respect to their units.

Additional Provisions of a Non-Prepaid Unit Agreement

In addition to the provisions described above, a non-prepaid unit agreement will include the following provisions.

Obligations of Unit Holder

Each holder of units issued under a non-prepaid unit agreement will:

- be bound by the terms of each non-prepaid purchase contract included in the holder's units and by the terms of the unit agreement with respect to those contracts; and
- appoint the unit agent as its authorized agent to execute, deliver and perform on the holder's behalf each non-prepaid purchase contract included in the holder's units.

The unit agreement for a unit that includes a non-prepaid purchase contract will also include provisions regarding the holder's pledge of collateral and special settlement provisions. These are described above under "Description of Purchase Contracts We May Offer — Additional Terms of Non-Prepaid Purchase Contracts".

Failure of Holder to Perform Obligations

If the holder fails to settle its obligations under a non-prepaid purchase contract included in a unit as required, the holder will not receive the purchase contract property or other consideration to be delivered at settlement of the purchase contract. Holders that fail to make timely settlement may also be obligated to pay interest or other amounts.

Assumption of Obligations by Transferee

When the holder of a unit issued under a non-prepaid unit agreement transfers the unit to a new holder, the new holder will assume the obligations of the prior holder with respect to each non-prepaid purchase contract included in the unit, and the prior holder will be released from those obligations. Under the non-prepaid unit agreement, we will consent to the transfer of the unit, to the assumption of those obligations by the new holder and to the release of the prior holder, if the transfer is made in accordance with the provisions of that agreement.

Mergers and Similar Transactions Permitted; No Restrictive Covenants or Events of Default

The unit agreements will not restrict our ability to merge or consolidate with, or sell our assets to, another corporation or other entity or to engage in any other transactions. If at any time we merge or consolidate with, or sell our assets substantially as an entirety to, another corporation or other entity, the successor entity will succeed to and assume our obligations under the unit agreements. We will then be relieved of any further obligation under these agreements.

The unit agreements will not include any restrictions on our ability to put liens on our assets, including our interests in our subsidiaries, nor will they restrict our ability to sell our assets. The unit

agreements also will not provide for any events of default or remedies upon the occurrence of any events of default.

Governing Law

The unit agreements and the units will be governed by New York law.

Form, Exchange and Transfer

We will issue each unit in global — *i.e.*, book-entry — form only. Units in book-entry form will be represented by a global security registered in the name of a depositary, which will be the holder of all the units represented by the global security. Those who own beneficial interests in a unit will do so through participants in the depositary's system, and the rights of these indirect owners will be governed solely by the applicable procedures of the depositary and its participants. We describe book-entry securities below under "Legal Ownership and Book-Entry Issuance".

In addition, we will issue each unit in registered form, unless we say otherwise in the applicable prospectus supplement. Bearer securities would be subject to special provisions, as we describe below under "Considerations Relating to Securities Issued in Bearer Form".

Each unit and all securities comprising the unit will be issued in the same form.

If we issue any units in registered, non-global form, the following will apply to them.

The units will be issued in the denominations stated in the applicable prospectus supplement. Holders may exchange their units for units of smaller denominations or combined into fewer units of larger denominations, as long as the total amount is not changed.

- Holders may exchange or transfer their units at the office of the unit agent. Holders may also replace lost, stolen, destroyed or mutilated units at that office. We may appoint another entity to perform these functions or perform them ourselves.
- Holders will not be required to pay a service charge to transfer or exchange their units, but they may be required to pay for any tax or other governmental charge associated with the transfer or exchange. The transfer or exchange, and any replacement, will be made only if our transfer agent is satisfied with the holder's proof of legal ownership. The transfer agent may also require an indemnity before replacing any units.
- If we have the right to redeem, accelerate or settle any units before their maturity, and we exercise our right as to less than all those units or other securities, we may block the exchange or transfer of those units during the period beginning 15 days before the day we mail the notice of exercise and ending on the day of that mailing, in order to freeze the list of holders to prepare the mailing. We may also refuse to register transfers of or exchange any unit selected for early settlement, except that we will continue to permit transfers and exchanges of the unsettled portion of any unit being partially settled. We may also block the transfer or exchange of any unit in this manner if the unit includes securities that are or may be selected for early settlement.

Only the depositary will be entitled to transfer or exchange a unit in global form, since it will be the sole holder of the unit.

Payments and Notices

In making payments and giving notices with respect to our units, we will follow the procedures we plan to use with respect to our debt securities, where applicable. We describe those procedures above under "Description of Debt Securities We May Offer — Payment Mechanics for Debt Securities" and "Description of Debt Securities We May Offer — Notices".

DESCRIPTION OF PREFERRED STOCK WE MAY OFFER

Please note that in this section entitled "Description of Preferred Stock We May Offer", references to "The Goldman Sachs Group, Inc.", "we", "our" and "us" refer only to The Goldman Sachs Group, Inc. and not to its consolidated subsidiaries. Also, in this section, references to "holders" mean those who own shares of preferred stock or depositary shares, as the case may be, registered in their own names, on the books that the registrar or we maintain for this purpose, and not those who own beneficial interests in shares registered in street name or in shares issued in book-entry form through one or more depositaries. Owners of beneficial interests in shares of preferred stock or depositary shares should read the section below entitled "Legal Ownership and Book-Entry Issuance".

We may issue our preferred stock in one or more series, as described below. We may also "reopen" a previously issued series of preferred stock and issue additional preferred stock of that series. This section summarizes terms of the preferred stock that apply generally to all series. We describe most of the financial and other specific terms of your series in the applicable prospectus supplement accompanying this prospectus. Those terms may vary from the terms described here.

As you read this section, please remember that the specific terms of your series of preferred stock and any related depositary shares as described in your prospectus supplement will supplement and, if applicable, may modify or replace the general terms described in this section. If there are differences between your prospectus supplement and this prospectus, your prospectus supplement will control. Thus, the statements we make in this section may not apply to your series of preferred stock or any related depositary shares.

When we refer to a series of preferred stock, we mean all of the shares of preferred stock issued as part of the same series under a certificate of designations filed as part of our certificate of incorporation. When we refer to your prospectus supplement, we mean the prospectus supplement describing the specific terms of the preferred stock and any related depositary shares you purchase. The terms used in your prospectus supplement will have the meanings described in this prospectus, unless otherwise specified.

Our affiliates may resell preferred stock and depositary shares after their initial issuance in market-making transactions. We describe these transactions above under "Description of Debt Securities We May Offer — Information in the Prospectus Supplement — Market-Making Transactions".

Our Authorized Preferred Stock

Our authorized capital stock includes 150,000,000 shares of preferred stock, par value $0.01 per share. We have 124,000 shares of perpetual preferred stock (designated as four separate series), $25,000 liquidation preference per share, issued and outstanding as of the date of this prospectus; the prospectus supplement with respect to any offered preferred stock will describe any preferred stock that may be outstanding as of the date of the applicable prospectus supplement.

Preferred Stock Issued in Separate Series

Our board of directors is authorized to divide the preferred stock into series and, with respect to each series, to determine the designations, the powers, preferences and rights and the qualifications, limitations and restrictions of the series, including:

- dividend rights;
- conversion or exchange rights;
- voting rights;
- redemption rights and terms;
- liquidation preferences;
- sinking fund provisions;
- the serial designation of the series; and
- the number of shares constituting the series.

Subject to the rights of the holders of any series of preferred stock, the number of authorized shares of any series of preferred stock may be increased or decreased, but not below the number of shares of that series then outstanding, by resolution adopted by our board of directors and approved by the affirmative vote of the holders of a majority of the voting power of all outstanding shares of capital stock entitled to vote on the matter, voting together as a single class. No separate vote of the holders of any series of preferred stock is required for an increase or decrease in the number of authorized shares of that series.

Before we issue any series of preferred stock, our board of directors, or a committee of our board authorized to do so by our board, will adopt resolutions creating and designating the series and will file a certificate of designations stating the terms of the series with the Secretary of State of the State of Delaware. None of our stockholders will need to approve that amendment.

In addition, as described below under "— Fractional or Multiple Shares of Preferred Stock Issued as Depositary Shares", we may, at our option, instead of offering whole individual shares of any series of preferred stock, offer depositary shares evidenced by depositary receipts, each representing a fraction of a share or some multiple of shares of the particular series of preferred stock issued and deposited with a depositary. The fraction of a share or multiple of shares of preferred stock which each depositary share represents will be stated in the prospectus supplement relating to any series of preferred stock offered through depositary shares.

The rights of holders of preferred stock may be adversely affected by the rights of holders of preferred stock that may be issued in the future. Our board of directors may cause shares of preferred stock to be issued in public or private transactions for any proper corporate purpose. Examples of proper corporate purposes include issuances to obtain additional financing for acquisitions and issuances to officers, directors and employees under their respective benefit plans. Shares of preferred stock we issue may have the effect of discouraging or making more difficult an acquisition of The Goldman Sachs Group, Inc. We may choose to issue preferred stock, together with our other securities described in this prospectus, in units.

Preferred stock will be fully paid and nonassessable when issued, which means that its holders will have paid their purchase price in full and that we may not ask them to surrender additional funds. Holders of preferred stock will not have preemptive or subscription rights to acquire more stock of The Goldman Sachs Group, Inc.

The transfer agent, registrar, dividend disbursing agent and redemption agent for shares of each series of preferred stock will be named in the prospectus supplement relating to that series.

Rank

Shares of each series of preferred stock will rank equally with each other series of preferred stock and senior to our common stock with respect to dividends and distributions of assets. In addition, we will generally be able to pay dividends and distributions of assets to holders of our preferred stock only if we have satisfied our obligations on our indebtedness then due and payable.

Dividends

Holders of each series of preferred stock will be entitled to receive cash dividends when, as and if declared by our board of directors, from funds legally available for the payment of dividends. The rates and dates of payment of dividends for each series of preferred stock will be stated in the applicable prospectus supplement. Dividends will be payable to holders of record of preferred stock as they appear on our books on the record dates fixed by our board of directors. Dividends on any series of preferred stock may be cumulative or noncumulative, as set forth in the applicable prospectus supplement.

Redemption

If specified in an applicable prospectus supplement, a series of preferred stock may be redeemable at any time, in whole or in part, at our option or the holder's, and may be redeemed mandatorily.

Any restriction on the repurchase or redemption by us of our preferred stock while there is an arrearage in the payment of dividends will be described in the applicable prospectus supplement.

Any partial redemptions of preferred stock will be made in a way that our board of directors decides is equitable.

Unless we default in the payment of the redemption price, dividends will cease to accrue after the redemption date on shares of preferred stock called for redemption and all rights of holders of these shares will terminate except for the right to receive the redemption price.

Conversion or Exchange Rights

The prospectus supplement relating to any series of preferred stock that is convertible, exercisable or exchangeable will state the terms on which shares of that series are convertible into or exercisable or exchangeable for shares of common stock, another series of preferred stock or other securities of The Goldman Sachs Group, Inc. or debt or equity securities of third parties.

Liquidation Preference

Upon any voluntary or involuntary liquidation, dissolution or winding up of The Goldman Sachs Group, Inc., holders of each series of preferred stock will be entitled to receive distributions upon liquidation in the amount described in the applicable prospectus supplement, plus an amount equal to any accrued and unpaid dividends. These distributions will be made before any distribution is made on any securities ranking junior to the preferred stock with respect to liquidation, including our common stock. If the liquidation amounts payable relating to the preferred stock of any series and any other securities ranking on a parity regarding liquidation rights are not paid in full, the holders of the preferred stock of that series and the other securities will share in any distribution of our available assets on a ratable basis in proportion to the full liquidation preferences of each security. Holders of our preferred stock will not be entitled to any other amounts from us after they have received their full liquidation preference.

Voting Rights

The holders of preferred stock of each series will have no voting rights, except:

- as stated in the applicable prospectus supplement and in the certificate of designations establishing the series; or
- as required by applicable law.

Mergers and Similar Transactions Permitted; No Restrictive Covenants

The terms of the preferred stock will not include any restrictions on our ability to merge or consolidate with, or sell our assets to, another corporation or other entity or to engage in any other transactions. The terms of the preferred stock also will not include any restrictions on our ability to put liens on our assets, including our interests in our subsidiaries.

Because we are a holding company, our ability to make payments on the preferred stock will depend in part on our ability to participate in distributions of assets from our subsidiaries. We discuss these matters above under "Description of Debt Securities We May Offer — We Are a Holding Company".

Governing Law

The preferred stock will be governed by Delaware law.

Fractional or Multiple Shares of Preferred Stock Issued as Depositary Shares

We may choose to offer fractional shares or some multiple of shares of our preferred stock, rather than whole individual shares. If we decide to do so, we will issue the preferred stock in the form of depositary shares. Each depositary share would represent a fraction or multiple of a share of the preferred stock and would be evidenced by a depositary receipt. We will issue depositary shares under a deposit agreement between a depositary, which we will appoint in our discretion, and us.

Deposit Agreement

We will deposit the shares of preferred stock to be represented by depositary shares under a deposit agreement. The parties to the deposit agreement will be:

- The Goldman Sachs Group, Inc.;
- a bank or other financial institution selected by us and named in the applicable prospectus supplement, as preferred stock depositary; and
- the holders from time to time of depositary receipts issued under that depositary agreement.

Each holder of a depositary share will be entitled to all the rights and preferences of the underlying preferred stock, including, where applicable, dividend, voting, redemption, conversion and liquidation rights, in proportion to the applicable fraction or multiple of a share of preferred stock represented by the depositary share. The depositary shares will be evidenced by depositary receipts issued under the deposit agreement. The depositary receipts will be distributed to those persons purchasing the fractional or multiple shares of preferred stock. A depositary receipt may evidence any number of whole depositary shares.

We have filed a deposit agreement, including the form of depositary receipt, with the SEC as an exhibit to a registration statement on Form 8-A, and in the future we may file additional deposit agreements, including the form of depository receipt, with the SEC, either as an exhibit to an amendment to the registration statements of which this prospectus forms a part or as an exhibit to a registration statement on Form 8-A. See "Available Information" above for information on how to obtain copies of documents filed by us with the SEC.

Dividends and Other Distributions

The preferred stock depositary will distribute any cash dividends or other cash distributions received in respect of the deposited preferred stock to the record holders of depositary shares relating to the underlying preferred stock in proportion to the number of depositary shares owned by the holders. The preferred stock depositary will distribute any property received by it other than cash to the record holders of depositary shares entitled to those distributions, unless it determines that the distribution cannot be made proportionally among those holders or that it is not feasible to make a distribution. In that event, the preferred stock depositary may, with our approval, sell the property and distribute the net proceeds from the sale to the holders of the depositary shares in proportion to the number of depositary shares they own.

The amounts distributed to holders of depositary shares will be reduced by any amounts required to be withheld by the preferred stock depositary or by us on account of taxes or other governmental charges.

Redemption of Preferred Stock

If we redeem preferred stock represented by depositary shares, the preferred stock depositary will redeem the depositary shares from the proceeds it receives from the redemption, in whole or in part, of the preferred stock. The preferred stock depositary will redeem the depositary shares at a price per share equal to the applicable fraction or multiple of the redemption price per share of preferred stock. Whenever we redeem shares of preferred stock held by the

preferred stock depositary, the preferred stock depositary will redeem as of the same date the number of depositary shares representing the redeemed shares of preferred stock. If fewer than all the depositary shares are to be redeemed, the preferred stock depositary will select the depositary shares to be redeemed by lot or ratably or by any other equitable method it chooses.

After the date fixed for redemption, the depositary shares called for redemption will no longer be deemed to be outstanding, and all rights of the holders of those shares will cease, except the right to receive the amount payable and any other property to which the holders were entitled upon the redemption. To receive this amount or other property, the holders must surrender the depositary receipts evidencing their depositary shares to the preferred stock depositary. Any funds that we deposit with the preferred stock depositary for any depositary shares that the holders fail to redeem will be returned to us after a period of two years from the date we deposit the funds.

Withdrawal of Preferred Stock

Unless the related depositary shares have previously been called for redemption, any holder of depositary shares may receive the number of whole shares of the related series of preferred stock and any money or other property represented by those depositary receipts after surrendering the depositary receipts at the corporate trust office of the preferred stock depositary, paying any taxes, charges and fees provided for in the deposit agreement and complying with any other requirement of the deposit agreement. Holders of depositary shares making these withdrawals will be entitled to receive whole shares of preferred stock, but holders of whole shares of preferred stock will not be entitled to deposit that preferred stock under the deposit agreement or to receive depositary receipts for that preferred stock after withdrawal. If the depositary shares surrendered by the holder in connection with withdrawal exceed the number of depositary shares that represent the number of whole shares of preferred stock to be withdrawn, the preferred stock depositary will deliver to that holder at the same time a new depositary receipt evidencing the excess number of depositary shares.

Voting Deposited Preferred Stock

When the preferred stock depositary receives notice of any meeting at which the holders of any series of deposited preferred stock are entitled to vote, the preferred stock depositary will mail the

information contained in the notice to the record holders of the depositary shares relating to the applicable series of preferred stock. Each record holder of the depositary shares on the record date, which will be the same date as the record date for the preferred stock, may instruct the preferred stock depositary to vote the amount of the preferred stock represented by the holder's depositary shares. To the extent possible, the preferred stock depositary will vote the amount of the series of preferred stock represented by depositary shares in accordance with the instructions it receives. We will agree to take all reasonable actions that the preferred stock depositary determines are necessary to enable the preferred stock depositary to vote as instructed. If the preferred stock depositary does not receive specific instructions from the holders of any depositary shares representing a series of preferred stock, it will vote all shares of that series held by it proportionately with instructions received.

Conversion of Preferred Stock

If the prospectus supplement relating to the depositary shares says that the deposited preferred stock is convertible into or exercisable or exchangeable for common stock, preferred stock of another series or other securities of The Goldman Sachs Group, Inc. or debt or equity securities of one or more third parties, the following will apply. The depositary shares, as such, will not be convertible into or exercisable or exchangeable for any securities of The Goldman Sachs Group, Inc. or any third party. Rather, any holder of the depositary shares may surrender the related depositary receipts to the preferred stock depositary with written instructions to instruct us to cause conversion, exercise or exchange of the preferred stock represented by the depositary shares into or for whole shares of common stock, shares of another series of preferred stock or other securities of The Goldman Sachs Group, Inc. or debt or equity securities of the relevant third party, as applicable. Upon receipt of those instructions and any amounts payable by the holder in connection with the conversion, exercise or exchange, we will cause the conversion, exercise or exchange using the same procedures as those provided for conversion, exercise or exchange of the deposited preferred stock. If only some of the depositary shares are to be converted, exercised or exchanged, a new depositary receipt or receipts will be issued for any depositary shares not to be converted, exercised or exchanged.

Amendment and Termination of the Deposit Agreement

We may amend the form of depositary receipt evidencing the depositary shares and any provision of the deposit agreement at any time and from time to time by agreement with the preferred stock depositary. However, any amendment that imposes additional charges or materially and adversely alters any substantial existing right of the holders of depositary shares will not be effective unless the holders of at least a majority of the affected depositary shares then outstanding approve the amendment. We will make no amendment that impairs the right of any holder of depositary shares, as described above under "— Withdrawal of Preferred Stock", to receive shares of the related series of preferred stock and any money or other property represented by those depositary shares, except in order to comply with mandatory provisions of applicable law. Holders who retain or acquire their depositary receipts after an amendment becomes effective will be deemed to have agreed to the amendment and will be bound by the amended deposit agreement.

The deposit agreement will automatically terminate if:

- all outstanding depositary shares have been redeemed or converted or exchanged for any other securities into which they or the underlying preferred stock are convertible or exchangeable; or
- a final distribution in respect of the preferred stock has been made to the holders of depositary shares in connection with any liquidation, dissolution or winding up of The Goldman Sachs Group, Inc.

We may terminate the deposit agreement at any time, and the preferred stock depositary will give notice of that termination to the recordholders of all outstanding depositary receipts not less than 30 days before the termination date. In that event, the preferred stock depositary will deliver or make available for delivery to holders of depositary shares, upon surrender of the depositary receipts

evidencing the depositary shares, the number of whole or fractional shares of the related series of preferred stock as are represented by those depositary shares.

Charges of Preferred Stock Depositary; Taxes and Other Governmental Charges

We will pay the fees, charges and expenses of the preferred stock depositary provided in the deposit agreement to be payable by us. Holders of depositary receipts will pay any taxes and governmental charges and any charges provided in the deposit agreement to be payable by them, including a fee for the withdrawal of shares of preferred stock upon surrender of depositary receipts. If the preferred stock depositary incurs fees, charges or expenses for which it is not otherwise liable at the election of a holder of a depositary receipt or other person, that holder or other person will be liable for those fees, charges and expenses.

Resignation and Removal of Depositary

The preferred stock depositary may resign at any time by giving us notice, and we may remove or replace the preferred stock depositary at any time.

Reports to Holders

We will deliver all required reports and communications to holders of the preferred stock to the preferred stock depositary. It will forward those reports and communications to the holders of depositary shares.

Limitation on Liability of the Preferred Stock Depositary

The preferred stock depositary will not be liable if it is prevented or delayed by law or any circumstances beyond its control in performing its obligations under the deposit agreement. The obligations of the preferred stock depositary under the deposit agreement will be limited to performance in good faith of its duties under the agreement, and it will not be obligated to prosecute or defend any legal proceeding in respect of any depositary shares, depositary receipts or shares of preferred stock unless satisfactory and reasonable protection from expenses and liability is furnished. This is called an indemnity. The preferred stock depositary may rely upon written advice of counsel or accountants, upon information provided by holders of depositary receipts or other persons believed to be competent and upon documents believed to be genuine.

Form of Preferred Stock and Depositary Shares

We may issue preferred stock in book-entry form. Preferred stock in book-entry form will be represented by a global security registered in the name of a depositary, which will be the holder of all the shares of preferred stock represented by the global security. Those who own beneficial interests in shares of preferred stock will do so through participants in the depositary's system, and the rights of these indirect owners will be governed solely by the applicable procedures of the depositary and its participants. However, beneficial owners of any preferred stock in book-entry form will have the right to obtain their shares in non-global form. We describe book-entry securities below under "Legal Ownership and Book-Entry Issuance". All preferred stock will be issued in registered form.

We will issue depositary shares in book-entry form, to the same extent as we describe above for preferred stock. Depositary shares will be issued in registered form.

THE ISSUER TRUSTS

Please note that in this section entitled "The Issuer Trusts", references to The Goldman Sachs Group, Inc., "we", "our" and "us" refer only to The Goldman Sachs Group, Inc. and not to its consolidated subsidiaries.

The following description summarizes the formation, purposes and material terms of each Issuer Trust. This description is followed by descriptions of:

- the capital securities to be issued by each Issuer Trust;
- the subordinated debt securities to be issued by us to each Issuer Trust, and the subordinated debt indenture under which they will be issued;
- our guarantees for the benefit of the holders of the capital securities; and
- the relationship among the capital securities, the corresponding subordinated debt securities, the expense agreements and the guarantees.

Each Issuer Trust is a statutory business trust created under Delaware law pursuant to:

- a trust agreement executed by us, as depositor of the Issuer Trust, and the Delaware trustee of such Issuer Trust; and
- a certificate of trust filed with the Delaware Secretary of State.

Before trust securities are issued, the trust agreement for the relevant Issuer Trust will be amended and restated in its entirety substantially in the form filed (or to be filed) with our SEC registration statement. The trust agreements will be qualified as indentures under the Trust Indenture Act of 1939.

Each Issuer Trust may offer to the public, from time to time, preferred securities representing preferred beneficial interests in the applicable Issuer Trust, which we call "capital securities". In addition to capital securities offered to the public, each Issuer Trust will sell common securities representing common beneficial interests in such Issuer Trust to The Goldman Sachs Group, Inc., and we call these securities "trust common securities". All of the trust common securities of each Issuer Trust will be owned by us. The trust common securities and the capital securities are also referred to together as the "trust securities".

Each Issuer Trust exists for the exclusive purposes of:

- issuing and selling its trust securities;
- using the proceeds from the sale of these trust securities to acquire corresponding subordinated debt securities from us; and
- engaging in only those other activities necessary or incidental to these purposes (for example, registering the transfer of the trust securities).

When any Issuer Trust sells trust securities, it will use the money it receives to buy a series of our subordinated debt securities, which we call the "corresponding subordinated debt securities" for those trust securities. The payment terms of the corresponding subordinated debt securities will be substantially the same as the terms of that Issuer Trust's capital securities, which we call the "related capital securities".

Each Issuer Trust will own only the applicable series of corresponding subordinated debt securities. The only source of funds for each Issuer Trust will be the payments it receives from us on the corresponding subordinated debt securities. Each Issuer Trust will use these funds to make any cash payments due to holders of its capital securities.

Each Issuer Trust will also be a party to an expense agreement with The Goldman Sachs Group, Inc. Under the terms of the expense agreement, the Issuer Trust will have the right to be reimbursed by us for certain expenses.

The trust common securities of an Issuer Trust will rank equally, and payments on them will be made pro rata, with the capital securities of that Issuer Trust, except that upon the occurrence and continuance of an event of default under a trust agreement of such Issuer Trust resulting from an event of default under the subordinated debt indenture, our rights, as holder of the trust common securities, to payment in respect of distributions and payments upon liquidation or redemption will be subordinated to the rights of the holders of the capital securities of that Issuer Trust. See "Description of Capital Securities and Related Instruments — Subordination of Trust Common Securities". We will acquire trust common securities in an aggregate liquidation amount greater than or equal to 3% of the total capital of each Issuer Trust. The prospectus supplement relating to any capital securities will contain the details of the cash distributions to be made periodically.

Under certain circumstances, we may redeem the corresponding subordinated debt securities that we sold to an Issuer Trust. If this happens, the Issuer Trust will redeem a like amount of the capital securities that it sold to the public and the trust common securities that it sold to us.

Under certain circumstances, we may dissolve an Issuer Trust and cause the corresponding subordinated debt securities to be distributed to the holders of the related capital securities. If this happens, owners of the related capital securities will no longer have any interest in such Issuer Trust and will own only the corresponding subordinated debt securities we issued to the Issuer Trust.

Unless otherwise specified in the applicable prospectus supplement:

- each Issuer Trust will have a term of approximately 31 years from the date it issues its trust securities, but may terminate earlier as provided in the applicable trust agreement;
- each Issuer Trust's business and affairs will be conducted by its trustees;
- the trustees will be appointed by us as holder of the trust common securities;
- the trustees for each Issuer Trust will be The Bank of New York, as property trustee, and The Bank of New York (Delaware), as Delaware trustee, and two individual administrative trustees who are employees or officers of The Goldman Sachs Group, Inc. or an affiliate of ours. These trustees are also referred to as the "Issuer Trust trustees". The Bank of New York, as property trustee, will act as sole indenture trustee under each trust agreement for purposes of compliance with the Trust Indenture Act. The Bank of New York will also act as trustee under the guarantees and the subordinated debt indenture. See "Description of Capital Securities and Related Instruments — Guarantees and Expense Agreements" and "Description of Capital Securities and Related Instruments — Corresponding Subordinated Debt Securities" below;
- if an event of default under the trust agreement for an Issuer Trust has occurred and is continuing, the holders of a majority in liquidation amount of the related capital securities will be entitled to appoint, remove or replace the property trustee and/or the Delaware trustee for such Issuer Trust;
- under all circumstances, only the holder of the trust common securities has the right to vote to appoint, remove or replace the administrative trustees;
- the duties and obligations of each Issuer Trust trustee are governed by the applicable trust agreement; and
- we will pay all fees and expenses related to each Issuer Trust and the offering of the capital securities and will pay, directly or indirectly, all ongoing costs, expenses and liabilities of each Issuer Trust.

The principal executive office of each Issuer Trust is 85 Broad Street, New York, NY 10004, and the telephone number for each is (212) 902-1000.

DESCRIPTION OF CAPITAL SECURITIES AND RELATED INSTRUMENTS

Please note that in this section entitled "Description of Capital Securities and Related Instruments", references to "The Goldman Sachs Group, Inc.", "we", "our" and "us" refer only to The Goldman Sachs Group, Inc. and not to its consolidated subsidiaries. Also, in this section, references to "holders" mean those who own capital securities registered in their own names, on the books that the Issuer Trust or property trustee maintains for this purpose, and not those who own beneficial interests in capital securities registered in street name or in capital securities issued in book-entry form through one or more depositaries. Owners of beneficial interest in the capital securities should read the section below entitled "Legal Ownership and Book-Entry Issuance".

General

Pursuant to the terms of the trust agreement for each Issuer Trust, each Issuer Trust will sell capital securities to the public and trust common securities to us. The capital securities represent preferred beneficial interests in the Issuer Trust that sold them. Holders of the capital securities will be entitled to receive distributions and amounts payable on redemption or liquidation ahead of holders of the trust common securities. A more complete discussion appears below under the heading "— Subordination of Trust Common Securities". Holders of the capital securities will also be entitled to other benefits as described in the corresponding trust agreement.

Each of the Issuer Trusts is a legally separate entity and the assets of one are not available to satisfy the obligations of any of the others.

The capital securities of an Issuer Trust will rank on a parity, and payments on them will be made pro rata, with the trust common securities of that Issuer Trust except as described under "— Subordination of Trust Common Securities". Legal title to the corresponding subordinated debt securities will be held and administered by the property trustee in trust for the benefit of the holders of the related capital securities and trust common securities.

The trustees for each Issuer Trust will be The Bank of New York, as property trustee, and The Bank of New York (Delaware), as Delaware trustee, and two individual administrative trustees who are employees or officers of us or our affiliates.

Each guarantee agreement executed by us for the benefit of the holders of an Issuer Trust's capital securities will be a guarantee on a subordinated basis with respect to the related capital securities but will not guarantee payment of distributions or amounts payable on redemption or liquidation of such capital securities when the related Issuer Trust does not have funds on hand available to make such payments. See "— Guarantees and Expense Agreements" below.

Each Issuer Trust May Issue Series of Capital Securities With Different Terms

Each Issuer Trust may issue one distinct series of capital securities. This section summarizes terms of the securities that apply generally to all series of capital securities. The provisions of the trust agreements allow the Issuer Trusts to issue series of capital securities with terms different from one another. We describe most of the financial and other specific terms of your series in the prospectus supplement accompanying this prospectus. Those terms may vary from the terms described here.

As you read this section, please remember that the specific terms of your capital security as described in your prospectus supplement will supplement and, if applicable, may modify or replace the general terms described in this section. If there are any differences between your prospectus supplement and this prospectus, your prospectus supplement will control. Thus, the statements we make in this section may not apply to your capital security.

When we refer to a series of capital securities, we mean a series issued under the applicable trust agreement. When we refer to your prospectus supplement, we mean the prospectus supplement describing the specific terms of the capital security you purchase. The terms used in your prospectus supplement will have the meanings described in this prospectus, unless otherwise specified.

Amounts That We May Issue

The trust agreements do not limit the aggregate amount of capital securities that may be issued or the aggregate amount of any particular series. We and the Issuer Trusts may issue capital securities and other securities at any time without your consent and without notifying you.

The trust agreements and the capital securities do not limit our ability to incur indebtedness or to issue other securities. Also, we are not subject to financial or similar restrictions by the terms of the capital securities.

In the future, we may form additional trusts or other entities similar to the Issuer Trusts, and those other entities could issue securities similar to the trust securities described in this section. In that event, we may issue subordinated debt securities under the subordinated debt indenture to those other issuer entities and guarantees under a guarantee agreement with respect to the securities they issue. We may also enter into expense agreements with those other issuers. The subordinated debt securities and guarantees we issue (and expense agreements we enter into) in those cases would be similar to those described in this prospectus, with such modifications as may be described in the applicable prospectus supplement.

Distributions

Distributions on the capital securities will be cumulative, will accumulate from the original issue date (unless otherwise specified in your prospectus supplement) and will be payable on the dates specified in your prospectus supplement. In the event that any date on which distributions on the capital securities are payable is not a business day, payment of that distribution will be made on the next business day (and without any interest or other payment in connection with this delay) except that, if the next business day falls in the next calendar year, payment of the distribution will be made on the immediately preceding business day, in either case with the same force and effect as if made on the original distribution date. Each date on which distributions are payable in accordance with the previous sentence is referred to as a “distribution date”. The term “business day” means, for any capital security, any Monday, Tuesday, Wednesday, Thursday or Friday that is not a day on which banking institutions in New York City generally are authorized or obligated by law or executive order to close and that satisfies any other criteria specified in your prospectus supplement.

Each Issuer Trust’s capital securities represent preferred beneficial interests in the applicable Issuer Trust, and the distributions on each capital security will be payable at a rate specified in your prospectus supplement. The amount of distributions payable for any period will be computed on the basis of a 360-day year of twelve 30-day months unless your prospectus supplement provides that the amount of distributions payable for any period will be computed on a different basis. Distributions to which holders of capital securities are entitled will accumulate additional distributions at the rate per annum if and as specified in your prospectus supplement. The term “distributions” as used in this summary includes these additional distributions unless otherwise stated.

If an extension period occurs with respect to the corresponding subordinated debt securities, distributions on the related capital securities will be correspondingly deferred (but would continue to accumulate additional distributions at the rate per annum set forth in the prospectus supplement for the capital securities). See “— Corresponding Subordinated Debt Securities — Option to Defer Interest Payments” below.

The revenue of each Issuer Trust available for distribution to holders of its capital securities will be limited to payments under the corresponding subordinated debt securities which the Issuer Trust will

acquire with the proceeds from the issuance and sale of its trust securities. See "— Corresponding Subordinated Debt Securities". If we do not make interest payments on the corresponding subordinated debt securities, the property trustee will not have funds available to pay distributions on the related capital securities. The payment of distributions (if and to the extent the Issuer Trust has funds legally available for the payment of distributions and cash sufficient to make payments) is guaranteed by us as described below under the heading "— Guarantees and Expense Agreements".

Distributions on the capital securities will be payable to the holders of capital securities as they appear on the register of the Issuer Trust at the close of business on the relevant record dates, which, as long as the capital securities remain in book-entry form, will be one business day prior to the relevant distribution date. Subject to any applicable laws and regulations and the provisions of the applicable trust agreement, each such payment will be made as described under the heading "Legal Ownership and Book-Entry Issuance". In the event any capital securities are not in book-entry form, the relevant record date for such capital securities will be the date 15 days prior to the relevant distribution date (whether or not a business day).

Redemption or Exchange

Mandatory Redemption

Upon the repayment or redemption, in whole or in part, of any corresponding subordinated debt securities, whether at their stated maturity or before their stated maturity as provided in the subordinated debt indenture, the proceeds from the repayment or redemption will be applied by the property trustee to redeem a like amount (as defined below) of the trust securities, upon not less than 30 nor more than 60 days notice before the applicable redemption date, at the redemption price specified in your prospectus supplement. If less than all of any series of corresponding subordinated debt securities are to be repaid or redeemed on a redemption date, then the proceeds from the repayment or redemption will be allocated pro rata to the redemption of the related capital securities and the trust common securities based upon the relative liquidation amounts of these classes. The amount of premium, if any, paid by us upon the redemption of all or any part of any series of any corresponding subordinated debt securities to be repaid or redeemed on a redemption date will be allocated to the redemption pro rata of the related capital securities and the trust common securities. The redemption price will be payable on each redemption date only to the extent that the Issuer Trust has funds then on hand and available in the payment account for the payment of the redemption price.

We will have the right to redeem any series of corresponding subordinated debt securities:

- on or after such date as may be specified in the applicable prospectus supplement, in whole at any time or in part from time to time;
- at any time, in whole (but not in part), upon the occurrence of a tax event or an investment company event (as defined below); or
- as may be otherwise specified in the applicable prospectus supplement.

Tax Event. A "tax event" means the receipt by the Issuer Trust of an opinion of counsel to the effect that, as a result of any tax change, there is more than an insubstantial risk that any of the following will occur:

- the Issuer Trust is, or will be within 90 days after the date of the opinion of counsel, subject to U.S. federal income tax on income received or accrued on the corresponding subordinated debt securities;
- interest payable by us on the corresponding subordinated debt securities is not, or within 90 days after the opinion of counsel will not be, deductible by us, in whole or in part, for U.S. federal income tax purposes; or

- the Issuer Trust is, or will be within 90 days after the date of the opinion of counsel, subject to more than a de minimis amount of other taxes, duties or other governmental charges.

As used above, the term "tax change" means any of the following:

- any amendment to or change (including any announced prospective change) in the laws or any regulations under the laws of the United States or of any political subdivision or taxing authority of or in the United States, if the amendment or change is effective on or after the date the capital securities are issued; or
- any official administrative pronouncement, including any private letter ruling, technical advice memorandum, field service advice, regulatory procedure, notice or announcement (including any notice or announcement of intent to adopt any procedures or regulations) or action or any judicial decision interpreting or applying such laws or regulations, whether or not the pronouncement, action or decision is issued to or in connection with a proceeding involving us or the Issuer Trust or is subject to review or appeal, if the pronouncement, action or decision is announced or occurs on or after the date of the issuance of the capital securities.

Investment Company Event. An "investment company event" means the receipt by the Issuer Trust of an opinion of counsel experienced in such matters to the effect that, as a result of any amendment to, or change (including any announced prospective change) in, the laws or any regulations under the laws of the United States or of any political subdivision or governmental agency or regulatory authority of or in the United States, or as a result of any official administrative pronouncement, including any interpretation, release, no-action letter, regulatory procedure, notice or announcement (including any notice or announcement of an intent to adopt any interpretation, procedures or regulations) or action or any judicial decision interpreting or applying such laws or regulations, whether or not the pronouncement, action or decision is issued to or in connection with a proceeding involving us or the Issuer Trust or is subject to review or appeal, which amendment or change is effective, or which pronouncement, action or decision is announced or occurs, on or after the date of the issuance of the capital securities, there is more than an insubstantial risk that the Issuer Trust is or will be considered an "investment company" that is required to be registered under the Investment Company Act.

Like Amount and Liquidation Amount. "Like amount" means, with respect to a redemption of any series of trust securities, trust securities of that series having a liquidation amount equal to the principal amount of corresponding subordinated debt securities to be contemporaneously redeemed in accordance with the subordinated debt indenture, the proceeds of which will be used to pay the redemption price of the trust securities. "Liquidation amount" means the stated amount per trust security as set forth in the applicable prospectus supplement.

Tax Event or Investment Company Event Redemption

If a tax event or investment company event (or any other event specified in your prospectus supplement) in respect of a series of capital securities and trust common securities has occurred and is continuing, we have the right to redeem the corresponding subordinated debt securities in whole (but not in part) and thereby cause a mandatory redemption of the capital securities and trust common securities in whole (but not in part) at the redemption price within 90 days following the occurrence of the tax event or investment company event (or other specified event). If a tax event or investment company event (or other specified event) has occurred and is continuing in respect of a series of capital securities and trust common securities and we do not elect to redeem the corresponding subordinated debt securities and thereby cause a mandatory redemption of the capital securities or to dissolve and liquidate the related Issuer Trust and cause the corresponding subordinated debt securities to be distributed to holders of the capital securities and trust common securities in liquidation of the Issuer Trust as described below, such capital securities will remain outstanding and additional sums (as defined below) may be payable on the corresponding subordinated debt securities.

The term “additional sums” means the additional amounts as may be necessary in order that the amount of distributions then due and payable by an Issuer Trust on the outstanding capital securities and trust common securities of the Issuer Trust will not be reduced as a result of any additional taxes, duties and other governmental charges to which the Issuer Trust has become subject as a result of a tax event.

After the liquidation date fixed for any distribution of corresponding subordinated debt securities for any series of related capital securities:

- the series of related capital securities will no longer be deemed to be outstanding;
- the depositary or its nominee, as the record holder of the related capital securities, will receive a registered global certificate or certificates representing the corresponding subordinated debt securities to be delivered upon the distribution; and
- any certificates representing the related capital securities not held by the depositary or its nominee will be deemed to represent the corresponding subordinated debt securities having a principal amount equal to the stated liquidation amount of the related capital securities, and bearing accrued and unpaid interest in an amount equal to the accrued and unpaid distributions on the related capital securities until the certificates are presented to the administrative trustees or their agent for transfer or reassurance.

Any distribution of corresponding subordinated debt securities to holders of related capital securities will be made to the applicable recordholders as they appear on the register for the related capital securities on the relevant record date, which will be one business day prior to the liquidation date. In the event that any related capital securities are not in book-entry form, the relevant record date will be a date 15 days prior to the liquidation date (whether or not a business day), as specified in the applicable prospectus supplement.

There can be no assurance as to the market prices for the related capital securities or the corresponding subordinated debt securities that may be distributed in exchange for related capital securities if a dissolution and liquidation of an Issuer Trust were to occur. Accordingly, the related capital securities that an investor may purchase, or the corresponding subordinated debt securities that the investor may receive on dissolution and liquidation of an Issuer Trust, may trade at a discount to the price that the investor paid to purchase the related capital securities being offered in connection with this prospectus.

Redemption Procedures

Capital securities redeemed on each redemption date will be redeemed at the redemption price with the applicable proceeds from the contemporaneous redemption of the corresponding subordinated debt securities. Redemptions of the capital securities will be made and the redemption price will be payable on each redemption date only to the extent that the related Issuer Trust has funds on hand available for the payment of the redemption price. See also “— Subordination of Trust Common Securities” below.

If the property trustee gives a notice of redemption in respect of any capital securities, then, while such capital securities are in book-entry form, by 12:00 noon, New York City time, on the redemption date, to the extent funds are available, the property trustee will deposit irrevocably with the depositary funds sufficient to pay the applicable redemption price and will give the depositary irrevocable instructions and authority to pay the redemption price to the holders of the capital securities. See “Legal Ownership and Book-Entry Issuance” below. If the capital securities are no longer in book-entry form, the property trustee, to the extent funds are available, will irrevocably deposit with the paying agent for the capital securities funds sufficient to pay the applicable redemption price and will give the paying agent irrevocable instructions and authority to pay the redemption price to the holders upon surrender of their certificates evidencing the capital securities. Notwithstanding the above, distributions payable on or prior to the redemption date for any capital securities called for redemption will be

payable to the holders of the capital securities on the relevant record dates for the related distribution dates. If notice of redemption has been given and funds deposited as required, then upon the date of the deposit, all rights of the holders of the capital securities so called for redemption will cease, except the right of the holders of the capital securities to receive the redemption price and any distribution payable in respect of the capital securities on or prior to the redemption date, but without interest on the redemption price, and the capital securities will cease to be outstanding. In the event that any date fixed for redemption of capital securities is not a business day, then payment of the redemption price will be made on the next business day (and without any interest or other payment in connection with this delay) except that, if the next business day falls in the next calendar year, payment of the redemption price will be made on the immediately preceding business day, in either case with the same force and effect as if made on the original date. In the event that payment of the redemption price in respect of capital securities called for redemption is improperly withheld or refused and not paid either by an Issuer Trust or by us pursuant to the related guarantee as described below under "— Guarantees and Expense Agreements", distributions on the capital securities will continue to accumulate at the then applicable rate from the redemption date originally established by the Issuer Trust for the capital securities to the date the redemption price is actually paid, in which case the date the redemption price is actually paid will be the date fixed for redemption for purposes of calculating the redemption price.

We or our affiliates may at any time and from time to time purchase outstanding capital securities by tender, in the open market or by private agreement.

Payment of the redemption price on the capital securities and any distribution of corresponding subordinated debt securities to holders of capital securities will be made to the applicable record holders as they appear on the register for the capital securities on the relevant record date, which, as long as the capital securities remain in book-entry form, will be the business day prior to the relevant redemption date or liquidation date, as applicable; provided, however, that in the event that the capital securities are not in book-entry form, the relevant record date for the capital securities will be a date at least 15 calendar days prior to the redemption date or liquidation date, as applicable, as specified in the applicable prospectus supplement.

If less than all of the capital securities and trust common securities issued by an Issuer Trust are to be redeemed on a redemption date, then the aggregate liquidation amount of the capital securities and trust common securities to be redeemed will be allocated pro rata to the capital securities and the trust common securities based upon the relative liquidation amounts of these classes. The particular capital securities to be redeemed will be selected on a pro rata basis not more than 60 days prior to the applicable redemption date by the property trustee from the outstanding capital securities not previously called for redemption, by a customary method that the property trustee deems fair and appropriate and which may provide for the selection for redemption of portions (equal to $1,000 or an integral multiple of $1,000, unless a different amount is specified in the applicable prospectus supplement) of the liquidation amount of capital securities of a denomination larger than $1,000 (or another denomination as specified in the applicable prospectus supplement). The property trustee will promptly notify the securities registrar in writing of the capital securities selected for redemption and, in the case of any capital securities selected for partial redemption, the liquidation amount to be redeemed. For all purposes of each trust agreement, unless the context otherwise requires, all provisions relating to the redemption of capital securities will relate, in the case of any capital securities redeemed or to be redeemed only in part, to the portion of the aggregate liquidation amount of capital securities which has been or is to be redeemed.

If we exercise an option to redeem any capital securities, the property trustee will give to the holders written notice of the aggregate liquidation amount of capital securities to be redeemed, not less than 30 nor more than 60 days before the applicable redemption date. The property trustee will give the notice in the manner described below in "— Notices".

Unless we default in payment of the redemption price on the corresponding subordinated debt securities interest will cease to accrue on the subordinated debt securities or portions thereof (and distributions will cease to accrue on the related capital securities or portions thereof) called for redemption on and after the redemption date.

Distribution of Corresponding Subordinated Debt Securities

We have the right at any time to dissolve any Issuer Trust and, after satisfaction of the liabilities of creditors of the Issuer Trust as provided by applicable law, cause to be distributed in respect of each series of capital securities and trust common securities issued by the Issuer Trust, to the holders of such trust securities, a like amount of the corresponding subordinated debt securities in liquidation of the Issuer Trust.

The term "like amount" means, with respect to a distribution of corresponding subordinated debt securities to holders of any series of trust securities in connection with a dissolution or liquidation of the related Issuer Trust, corresponding subordinated debt securities having a principal amount equal to the liquidation amount of the trust securities in respect of which the distribution is made.

If we or any of our affiliates acquire capital securities, we may exchange them for a like amount of corresponding subordinated debt securities at any time.

Subordination of Trust Common Securities

Payment of distributions on, and the redemption price of, each Issuer Trust's capital securities and trust common securities, as applicable, will be made pro rata based on the liquidation amount of the capital securities and trust common securities; provided, however, that if on any distribution date, redemption date or liquidation date an event of default under the subordinated debt indenture has occurred and is continuing as a result of any failure by us to pay any amounts in respect of the subordinated debt securities when due, no payment of any distribution on, or redemption price of, or liquidation distribution in respect of, any of the Issuer Trust's trust common securities, and no other payment on account of the redemption, liquidation or other acquisition of the trust common securities, will be made unless payment in full in cash of all accumulated and unpaid distributions on all of the Issuer Trust's outstanding capital securities for all distribution periods terminating on or prior to that date, or in the case of payment of the redemption price the full amount of the redemption price on all of the Issuer Trust's outstanding capital securities then called for redemption, or in the case of payment of the liquidation distribution the full amount of the liquidation distribution on all of the Issuer Trust's outstanding capital securities, has been made or provided for, and all funds available to the property trustee must first be applied to the payment in full in cash of all distributions on, or the redemption price of, the Issuer Trust's outstanding capital securities then due and payable.

In the case of any event of default under the applicable trust agreement resulting from an event of default under the subordinated debt indenture, we as holder of the Issuer Trust's trust common securities will have no right to act with respect to the event of default until the effect of all events of default with respect to such Issuer Trust's capital securities have been cured, waived or otherwise eliminated. Until any events of default under the applicable trust agreement with respect to the applicable capital securities have been cured, waived or otherwise eliminated, the property trustee will act solely on behalf of the holders of these capital securities and not on behalf of us as holder of the Issuer Trust's trust common securities, and only these holders of the capital securities will have the right to direct the property trustee to act on their behalf.

Liquidation Distribution Upon Dissolution

Pursuant to the relevant trust agreement, each Issuer Trust will dissolve on the first to occur of:

- the expiration of its term;

- certain events of bankruptcy, dissolution or liquidation of the holder of its trust common securities;
- the distribution of a like amount of the corresponding subordinated debt securities to the holders of its trust securities, if we have given written direction to the property trustee to terminate the Issuer Trust. Such written direction by us is optional and solely within our discretion;
- redemption of all of such Issuer Trust's capital securities as described above under "— Redemption or Exchange — Mandatory Redemption"; and
- the entry of an order for the dissolution of such Issuer Trust by a court of competent jurisdiction.

If an early termination occurs as described in the first, second, third and fifth bullet points above, the relevant Issuer Trust will be liquidated by the related Issuer Trust trustees as expeditiously as the Issuer Trust trustees determine to be possible by distributing, after satisfaction of liabilities to creditors of the Issuer Trust as provided by applicable law, to the holders of the trust securities a like amount of the corresponding subordinated debt securities in exchange for their trust securities, unless the distribution is determined by the property trustee not to be practical, in which event the holders will be entitled to receive out of the assets of the Issuer Trust available for distribution to holders, after satisfaction of liabilities to creditors of such Issuer Trust as provided by applicable law, an amount equal to, in the case of holders of capital securities, the aggregate of the liquidation amount plus accrued and unpaid distributions to the date of payment (an amount referred to as the "liquidation distribution"). If the liquidation distribution can be paid only in part because the Issuer Trust has insufficient assets available to pay in full the aggregate liquidation distribution, then the amounts payable directly by the Issuer Trust on its capital securities will be paid on a pro rata basis. The holder of the Issuer Trust's trust common securities will be entitled to receive distributions upon any liquidation pro rata with the holders of its capital securities, except that if an event of default under the subordinated debt indenture has occurred and is continuing as a result of any failure by us to pay any amounts in respect of the corresponding subordinated debt securities when due, the related capital securities will have a priority over the related trust common securities.

Events of Default; Notice

The following events will be "events of default" with respect to each series of capital securities issued under a trust agreement by an Issuer Trust:

- any event of default under the subordinated debt indenture with respect to the corresponding subordinated debt securities has occurred and is continuing (see "Description of Debt Securities We May Offer — Default, Remedies and Waiver of Default — Events of Default" above);
- default for 30 days by the Issuer Trust in the payment of any distribution on any capital security of such series or any common trust security of the Issuer Trust;
- default by the Issuer Trust in the payment of the redemption price of any capital security of such series or any common trust security of such Issuer Trust;
- failure by the Issuer Trust trustees to perform any other covenant or warranty in the trust agreement for 60 days after the holders of at least 25% in aggregate liquidation amount of the outstanding capital securities of such series give written notice to us and the Issuer Trust trustees; or
- bankruptcy, insolvency or reorganization of the property trustee and the failure by us to appoint a successor property trustee within 90 days.

Within five business days after the occurrence of any event of default with respect to a series of capital securities actually known to the property trustee, the property trustee will transmit notice of the event of default to the holders of such capital securities, the administrative trustees and us, as depositor, unless the event of default has been cured or waived.

We, as depositor, and the administrative trustees are required to file annually with the property trustee a certificate as to whether or not they are in compliance with all the conditions and covenants applicable to them under the relevant trust agreement.

If an event of default under the subordinated debt indenture has occurred and is continuing with respect to a series of corresponding subordinated debt securities, the series of related capital securities will have a preference over the related trust common securities of the relevant Issuer Trust as described above. See "— Liquidation Distribution Upon Dissolution" above. The existence of an event of default does not entitle the holders of capital securities to accelerate the maturity of the capital securities.

Whenever we refer to an event of default under the subordinated debt indenture in connection with any series of capital securities, we mean such an event of default with respect to the corresponding subordinated debt securities.

Removal of Issuer Trust Trustees

Unless an event of default under the subordinated debt indenture has occurred and is continuing, any Issuer Trust trustee may be removed at any time by the holder of the Issuer Trust's trust common securities. If an event of default under the subordinated debt indenture has occurred and is continuing with respect to a series of capital securities, the property trustee and the Delaware trustee may be removed under the applicable trust agreement by the holders of a majority in liquidation amount of the outstanding capital securities of such series. In no event will the holders of the capital securities have the right to vote to appoint, remove or replace the administrative trustees. Such voting rights are vested exclusively in us as the holder of the trust common securities. No resignation or removal of an Issuer Trust trustee and no appointment of a successor trustee will be effective until the acceptance of appointment by the successor trustee in accordance with the provisions of the applicable trust agreement.

Co-Trustees and Separate Property Trustee

Unless an event of default under the subordinated debt indenture has occurred and is continuing, at any time or from time to time, for the purpose of meeting the legal requirements of the Trust Indenture Act or of any jurisdiction in which any part of the trust property may at the time be located, we, as the holder of the trust common securities, and the administrative trustees will have power to appoint one or more persons either to act as a co-trustee, jointly with the property trustee, of all or any part of the trust property, or to act as separate trustee of any trust property, in either case with the powers specified in the instrument of appointment, and to vest in the person or persons in this capacity any property, title, right or power deemed necessary or desirable, subject to the provisions of the applicable trust agreement. In case an event of default under the subordinated debt indenture has occurred and is continuing, the property trustee alone will have power to make this appointment.

Merger or Consolidation of Issuer Trust Trustees

Any person into which the property trustee, the Delaware trustee or any administrative trustee that is not a natural person may be merged or converted or with which it may be consolidated, or any person resulting from any merger, conversion or consolidation to which the trustee will be a party, or any person succeeding to all or substantially all the corporate trust business of the trustee, will automatically become the successor of the trustee under each trust agreement, provided the person is otherwise qualified and eligible.

Mergers, Consolidations, Amalgamations or Replacements of the Issuer Trusts

An Issuer Trust may not merge, consolidate or amalgamate with or into or be replaced by or convey, transfer or lease its properties and assets substantially as an entirety to any corporation or other person, except as described below or as described above under "— Liquidation Distribution

Upon Dissolution". An Issuer Trust may, at our request, with the consent of the holders of a majority in liquidation amount of the outstanding capital securities issued by the Issuer Trust (voting together as a single class), merge, consolidate or amalgamate with or into, be replaced by or convey, transfer or lease its properties and assets substantially as an entirety to a trust organized under the laws of any state, provided that:

- the successor entity either:
  - expressly assumes all of the obligations of the Issuer Trust with respect to its outstanding capital securities; or
  - substitutes for the outstanding capital securities of the Issuer Trust other securities having substantially the same terms as the capital securities (referred to as the "successor securities") so long as the successor securities rank the same as the capital securities in priority with respect to distributions and payments upon liquidation, redemption and otherwise;
- we expressly appoint a trustee of the successor entity possessing the same powers and duties as property trustee as the holder of the corresponding subordinated debt securities;
- the merger, consolidation, amalgamation, replacement, conveyance, transfer or lease does not cause the outstanding capital securities of the Issuer Trust to be downgraded by any nationally recognized statistical rating organization which assigns ratings to the capital securities;
- the merger, consolidation, amalgamation, replacement, conveyance, transfer or lease does not adversely affect the rights, preferences and privileges of the holders of the outstanding capital securities of the Issuer Trust (including any successor securities) in any material respect (other than in connection with any distribution of the holders' interests in the successor entity).
- the successor entity has a purpose substantially identical to that of the Issuer Trust;
- prior to the merger, consolidation, amalgamation, replacement, conveyance, transfer or lease, we have received an opinion from counsel to the Issuer Trust to the effect that:
  - the merger, consolidation, amalgamation, replacement, conveyance, transfer or lease does not adversely affect the rights, preferences and privileges of the holders of the outstanding capital securities of the Issuer Trust (including any successor securities) in any material respect; and
  - following the merger, consolidation, amalgamation, replacement, conveyance, transfer or lease, neither the Issuer Trust nor the successor entity will be required to register as an investment company under the Investment Company Act of 1940; and
- we or any permitted successor or assignee owns all of the trust common securities of the successor entity and guarantees the obligations of the successor entity under the successor securities at least to the extent provided by the related guarantee.

Notwithstanding the foregoing, an Issuer Trust will not, except with the consent of holders of 100% in liquidation amount of the related capital securities (voting together as a single class), merge, consolidate or amalgamate with or into, be replaced by or convey, transfer or lease its properties and assets substantially as an entirety to any other entity, or permit any other entity to consolidate, amalgamate or merge with or into or replace it, if such merger, consolidation, amalgamation, replacement, conveyance, transfer or lease would cause the Issuer Trust or the successor entity to be classified as an association taxable as a corporation or as other than a grantor trust for U.S. federal income tax purposes.

There are no provisions that afford holders of any capital securities protection in the event of a sudden and dramatic decline in our credit quality resulting from any highly leveraged transaction, takeover, merger, recapitalization or similar restructuring or change in control of The Goldman Sachs

Group, Inc., nor are there any provisions that require the repurchase of any capital securities upon a change in control of The Goldman Sachs Group, Inc.

The subordinated debt indenture does not restrict The Goldman Sachs Group, Inc.'s ability to participate in a merger or other business combination or any other transaction, except to the limited extent described above under "Description of Debt Securities We May Offer — Mergers and Similar Transactions".

Voting Rights; Amendment of Each Trust Agreement

Except as provided below and under "— Guarantees and Expense Agreements — Amendments and Assignment" below and as otherwise required by law and the applicable trust agreement, the holders of the capital securities will have no voting rights or the right to in any manner otherwise control the administration, operation or management of the relevant Issuer Trust.

Each trust agreement may be amended from time to time by us, without the consent of the holders of the capital securities:

- to cure any ambiguity, correct or supplement any provisions in the trust agreement that may be inconsistent with any other provision, or to make any other provisions with respect to matters or questions arising under the trust agreement, which will not be inconsistent with the other provisions of the trust agreement; or
- to modify, eliminate or add to any provisions of the trust agreement as necessary to ensure that the relevant Issuer Trust:
  - will be classified for U.S. federal income tax purposes as a grantor trust or as other than an association taxable as a corporation at all times that any trust securities are outstanding;
  - will not be required to register as an "investment company" under the Investment Company Act; or
  - for any other particular reason that may be specified in the applicable prospectus supplement;

provided that:

- no such amendment will adversely affect in any material respect the rights of the holders of the outstanding capital securities issued under the trust agreement; and
- any such amendment will become effective when notice of the amendment is given to the holders of trust securities issued under the trust agreement.

Each trust agreement may be amended by us with:

- the consent of holders representing at least a majority (based upon liquidation amounts) of the outstanding capital securities issued under the trust agreement (voting together as a single class); and
- receipt by the Issuer Trust trustees of an opinion of counsel to the effect that the amendment or the exercise of any power granted to the Issuer Trust trustees in accordance with the amendment will not cause the Issuer Trust to be taxable as a corporation or affect the Issuer Trust's status as a grantor trust for U.S. federal income tax purposes or the Issuer Trust's exemption from status as an "investment company" under the Investment Company Act,

provided that, without the consent of the holder of each affected capital security issued under the trust agreement, the trust agreement may not be amended to:

- reduce the amount or change the timing of any distribution on the capital security required to be made as of a specified due date; or

- restrict the right of the holder of the capital security to institute suit for the enforcement of any such payment on or after such date.

So long as any corresponding subordinated debt securities are held by the Issuer Trust, the property trustee will not:

- direct the time, method and place of conducting any proceeding for any remedy available to the subordinated debt trustee, or executing any trust or power conferred on the property trustee with respect to the corresponding subordinated debt securities;
- waive any past default with respect to the corresponding subordinated debt securities that is waivable under the subordinated debt indenture;
- exercise any right to rescind or annul a declaration that the principal of all the corresponding subordinated debt securities will be due and payable; or
- consent to any modification or termination of the corresponding subordinated debt securities or the subordinated debt indenture with respect to those debt securities, where this consent is required, without, in each case, obtaining the prior approval of the holders of a majority in aggregate liquidation amount of all outstanding capital securities of the Issuer Trust (voting together as a single class);

provided, however, that where a consent under the subordinated debt indenture would require the consent of each holder of corresponding subordinated debt securities affected, no such consent will be given by the property trustee without the prior consent of the holder of each related capital security affected. The Issuer Trust trustees will not revoke any action previously authorized or approved by a vote of the holders of the relevant capital securities except by subsequent vote of the holders of those capital securities. The property trustee will notify each holder of capital securities of any notice of default with respect to the corresponding subordinated debt securities. In addition to obtaining the foregoing approvals of the holders of the capital securities, prior to taking any of the foregoing actions, the Issuer Trust trustees will obtain an opinion of counsel to the effect that:

- the Issuer Trust will not be classified as an association taxable as a corporation for U.S. federal income tax purposes on account of the action; and
- the action would not cause the Issuer Trust to be classified as other than a grantor trust for U.S. federal income tax purposes.

Any required approval of holders of capital securities may be given at a meeting of holders of capital securities convened for that purpose or pursuant to written consent. The administrative trustees or, at the written request of the administrative trustees, the property trustee will cause a notice of any meeting at which holders of capital securities are entitled to vote, to be given to each holder of record of capital securities in the manner set forth in each trust agreement.

No vote or consent of the holders of capital securities will be required for an Issuer Trust to redeem and cancel its capital securities in accordance with the applicable trust agreement.

Notwithstanding that holders of capital securities are entitled to vote or consent under any of the circumstances described above, any of the capital securities that are owned by us, the Issuer Trust trustees or any affiliate of us or any Issuer Trust trustees, will, for purposes of that vote or consent, be treated as if they were not outstanding.

Global Capital Securities

Unless otherwise set forth in the applicable prospectus supplement, any capital securities will be represented by fully registered global certificates issued as global capital securities that will be deposited with, or on behalf of, a depositary with respect to that series instead of paper certificates issued to each individual holder. The depositary arrangements that will apply, including the manner in which principal of and premium, if any, and interest on capital securities and other payments will be

payable are discussed in more detail below under the heading “Legal Ownership and Book-Entry Issuance”.

Payment and Paying Agency

Payments in respect of capital securities will be made in accordance with the applicable policies of DTC as described under “Legal Ownership and Book-Entry Issuance”. If any capital securities are not represented by global certificates, payments will be made by check mailed to the holder entitled to them at his or her address shown on the property trustee’s records as of the close of business on the regular record date. Unless otherwise specified in the applicable prospectus supplement, the paying agent will initially be the property trustee and any co-paying agent chosen by the property trustee and reasonably acceptable to the administrative trustees and us. The paying agent will be permitted to resign as paying agent upon 30 days’ written notice to the property trustee and us. In the event that the property trustee is no longer the paying agent, the administrative trustees will appoint a successor (which will be a bank or trust company acceptable to the administrative trustees and us) to act as paying agent.

Registrar and Transfer Agent

Unless otherwise specified in the applicable prospectus supplement, the property trustee will act as registrar and transfer agent for the capital securities.

Registration of transfers of capital securities will be effected without charge by or on behalf of each Issuer Trust, but upon payment of any tax or other governmental charges that may be imposed in connection with any transfer or exchange. The Issuer Trusts will not be required to register or cause to be registered the transfer of their capital securities after the capital securities have been called for redemption.

Information Concerning the Property Trustee

The property trustee, other than during the occurrence and continuance of an event of default, undertakes to perform only those duties specifically set forth in each trust agreement and, after an event of default, must exercise the same degree of care and skill as a prudent person would exercise or use in the conduct of his or her own affairs. Subject to this provision, the property trustee is under no obligation to exercise any of the powers vested in it by the applicable trust agreement at the request of any holder of capital securities unless it is offered reasonable indemnity against the costs, expenses and liabilities that might be incurred as a result. If no event of default has occurred and is continuing and the property trustee is required to decide between alternative causes of action, construe ambiguous provisions in the applicable trust agreement or is unsure of the application of any provision of the applicable trust agreement, and the matter is not one on which holders of capital securities are entitled under the trust agreement to vote, then the property trustee will take such action as is directed by us and if not so directed, will take such action as it deems advisable and in the best interests of the holders of the trust securities and will have no liability except for its own bad faith, negligence or willful misconduct.

Miscellaneous

The administrative trustees are authorized and directed to conduct the affairs of and to operate the Issuer Trusts in such a way that no Issuer Trust will be (1) deemed to be an “investment company” required to be registered under the Investment Company Act or (2) classified as an association taxable as a corporation or as other than a grantor trust for U.S. federal income tax purposes and so that the corresponding subordinated debt securities will be treated as indebtedness of The Goldman Sachs Group, Inc. for U.S. federal income tax purposes. In addition, we and the administrative trustees are authorized to take any action not inconsistent with applicable law, the certificate of trust of each Issuer Trust or each trust agreement, that we and the administrative trustees determine in

their discretion to be necessary or desirable for such purposes as long as such action does not materially adversely affect the interests of the holders of the related capital securities.

Holders of the capital securities have no preemptive or similar rights.

No Issuer Trust may borrow money or issue debt or mortgage or pledge any of its assets.

Corresponding Subordinated Debt Securities

The corresponding subordinated debt securities may be issued in one or more series under the subordinated debt indenture, as it may be supplemented or amended by a supplemental indenture. Each series will be a series of subordinated debt securities having the terms described under "Description of Debt Securities We May Offer" above, but with such modifications as are described below or in the applicable prospectus supplement. To the extent provisions regarding the corresponding subordinated debt securities in this section are inconsistent with those described above in "Description of Debt Securities We May Offer", the provisions in this section control.

Concurrently with the issuance of each Issuer Trust's capital securities, the Issuer Trust will invest the proceeds thereof and the consideration paid by us for the trust common securities of the Issuer Trust in the series of corresponding subordinated debt securities issued by us to the Issuer Trust. Each series of corresponding subordinated debt securities will be in the principal amount equal to the aggregate stated liquidation amount of the related capital securities and the trust common securities of the Issuer Trust and will rank on a parity with all other series of corresponding subordinated debt securities (but junior to most of our other debt) unless otherwise provided in the applicable prospectus supplement. See "— Subordination" below. Holders of the related capital securities for a series of corresponding subordinated debt securities will have the rights in connection with modifications of the subordinated debt indenture or upon the occurrence of events of default under the subordinated debt indenture, as described under "— Modification of the Subordinated Debt Indenture" below, unless provided otherwise in the prospectus supplement for such related capital securities.

We have agreed in the subordinated debt indenture, as to each series of corresponding subordinated debt securities, that if and so long as:

- the Issuer Trust of the related series of trust securities is the holder of all the corresponding subordinated debt securities;
- a tax event in respect of such Issuer Trust has occurred and is continuing;
- no event of default under the subordinated debt indenture has occurred and is continuing; and
- we do not elect to redeem the related capital securities;

we will pay to the Issuer Trust additional sums (as defined under "— Redemption or Exchange"). We also have agreed, as to each series of corresponding subordinated debt securities:

- to maintain directly or indirectly 100% ownership of the trust common securities of the Issuer Trust to which the corresponding subordinated debt securities have been issued, provided that certain successors which are permitted under the subordinated debt indenture may succeed to our ownership of the trust common securities;
- not to voluntarily terminate, wind up or liquidate any Issuer Trust, except:
  - in connection with a distribution of corresponding subordinated debt securities to the holders of the capital securities in exchange for their capital securities upon liquidation of the Issuer Trust (which we may effect in our discretion); or
  - in connection with certain mergers, consolidations or amalgamations permitted by the related trust agreement; and

- to use our reasonable efforts, consistent with the terms and provisions of the related trust agreement, to cause the Issuer Trust to be classified as a grantor trust and not as an association taxable as a corporation for U.S. federal income tax purposes.

The corresponding subordinated debt securities will have the terms described above under "Description of Debt Securities We May Offer", including the subordination provisions, events of default and payment mechanics described in that section. Notwithstanding the foregoing, the corresponding subordinated debt securities will have the additional or superseding terms and conditions described below.

Each series of corresponding debt securities will be issued to and initially held by the relevant Issuer Trust (or property trustee on its behalf), in non-global (i.e., non-book entry) form. Unless and until the corresponding subordinated debt securities are distributed to the holders of the related capital securities in exchange for the latter, the relevant Issuer Trust (or property trustee) will be the sole holder of those debt securities for all purposes of the subordinated debt indenture, and the holders of the related capital securities will not have any ownership right, direct or indirect, with respect to those debt securities.

When you read the section entitled "Description of Debt Securities We May Offer", please remember that references in that section to the holders of debt securities will mean, in the case of corresponding subordinated debt securities, the relevant Issuer Trust (or property trustee) and that those debt securities will not be held in book-entry form unless and until they are distributed to holders of the related capital securities in exchange for the latter. Upon a distribution of this kind, the sole holder of those debt securities will be the relevant depositary, if the debt securities are distributed in book-entry form, or the former holders of the related capital securities who receive them in the distribution, if the debt securities are not distributed in book-entry form. See also "Legal Ownership and Book-Entry Issuance" below.

Option to Defer Interest Payments

If provided in the applicable prospectus supplement, so long as no event of default under the subordinated debt indenture has occurred and is continuing, we will have the right at any time and from time to time during the term of any series of subordinated debt securities to defer payment of interest for up to the number of consecutive interest payment periods that is specified in the applicable prospectus supplement, referred to as an "extension period", subject to the terms, conditions and covenants, if any, specified in the prospectus supplement, provided that the extension period may not extend beyond the stated maturity of the applicable series of subordinated debt securities. Prior to the termination of any applicable extension period, we may further defer the payment of interest (subject to the terms, conditions and covenants, if any, specified in the prospectus supplement), but not beyond the specified number of interest payment periods or the stated maturity of the corresponding subordinated debt securities.

As a consequence of any such deferral, distributions on the capital securities would be deferred and would not result in any default (but would continue to accumulate additional distributions at the rate per annum described in the prospectus supplement for the capital securities) by the Issuer Trust of the capital securities during the extension period. During any applicable extension period, we may not, and may not permit any subsidiary to:

- declare or pay any dividends or distributions on, or redeem, purchase, acquire or make a liquidation payment with respect to, any of our capital stock; or
- make any payment of principal of or interest or premium, if any, on or repay, repurchase or redeem any of our debt securities that rank on a parity in all respects with or junior in interest in all respects to the corresponding subordinated debt securities;

- make any guarantee payments with respect to any guarantee by us of debt securities of any of our subsidiaries that rank on a parity in all respects with or junior in interest in all respects to the corresponding subordinated debt securities;

in each case, other than:

- repurchases, redemptions or other acquisitions of shares of our capital stock in connection with any employment contract, benefit plan or other similar arrangement with or for the benefit of one or more employees, officers, directors or consultants, in connection with a dividend reinvestment or stockholder stock purchase plan or in connection with the issuance of our capital stock (or securities convertible into or exercisable for our capital stock) as consideration in an acquisition transaction entered into prior to the applicable extension period;
- as a result of any exchange or conversion of any class or series of our capital stock (or any capital stock of a subsidiary of ours) for any class or series of our capital stock or of any class or series of our indebtedness for any class or series of our capital stock;
- the purchase of fractional interests in shares of our capital stock in accordance with the conversion or exchange provisions of such capital stock or the security being converted or exchanged;
- any declaration of a dividend in connection with any stockholders' rights plan, or the issuance of rights, stock or other property under any stockholders' rights plan, or the redemption or repurchase of rights in accordance with any stockholders' rights plan;
- any dividend in the form of stock, warrants, options or other rights where the dividend stock or the stock issuable upon exercise of the warrants, options or other rights is the same stock as that on which the dividend is being paid or ranks on a parity with or junior to such stock; or
- any payments under any guarantees relating to any capital securities.

Subordination

The corresponding subordinated debt securities will be subject to the subordination provisions described above under "Description of Debt Securities We May Offer — Subordination Provisions", except that the definition of "senior indebtedness" will be modified as provided in the applicable prospectus supplement. As a result of this modified definition of senior indebtedness, the corresponding subordinated debt securities may be subordinated and junior in right of payment to most of our indebtedness, including our senior debt, our subordinated debt securities that are not issued to the Issuer Trusts and most of our other subordinated debt. The subordinated debt indenture does not limit our ability to incur additional indebtedness of any kind, including additional senior indebtedness. We expect from time to time to incur additional indebtedness constituting senior indebtedness.

Modification of the Subordinated Debt Indenture

We may modify or amend the subordinated debt indenture with the consent of the subordinated debt trustee, in some cases without obtaining the consent of security holders, as described above under "Description of Debt Securities We May Offer — Modification of the Debt Indentures and Waiver of Covenants". However, in the case of any series of corresponding subordinated debt securities, so long as any of the related series of capital securities remain outstanding,

- no modification may be made that adversely affects the holders of such series of capital securities in any material respect, and no termination of the subordinated debt indenture may occur, and no waiver of any event of default under the subordinated debt indenture with respect to such series of capital securities may be effective, without the prior consent of the holders of at least a majority of the aggregate liquidation amount of all outstanding capital securities of such series affected, unless and until the principal of the corresponding subordinated debt

securities and all accrued and unpaid interest have been paid in full and certain other conditions have been satisfied, and

- where a consent under the subordinated debt indenture would require the consent of each holder of a series of corresponding subordinated debt securities, no such consent will be given by the property trustee without the prior consent of each holder of capital securities of the related series affected.

Enforcement of Certain Rights by Holders of Capital Securities

If an event of default with respect to a series of corresponding subordinated debt securities has occurred and is continuing and the event is attributable to our failure to pay interest or principal on the corresponding subordinated debt securities on the date the interest or principal is due and payable (and after a 30-day grace period for interest defaults), a holder of the related capital securities may institute a legal proceeding directly against us for enforcement of payment to that holder of the principal of or interest on corresponding subordinated debt securities having a principal amount equal to the aggregate liquidation amount of the related capital securities of that holder (a "direct action"). We may not amend the subordinated debt indenture to remove this right to bring a direct action without the prior written consent of the holders of all of the related capital securities outstanding and affected. We will have the right under the subordinated debt indenture to set-off any payment made to a holder of the related capital securities by us in connection with a direct action.

The holders of at least 25% in aggregate liquidation amount of any series of outstanding capital securities may, by giving notice in writing to us and the subordinated debt trustee, accelerate the corresponding subordinated debt securities with respect to such series upon the occurrence and during the continuance of an event of default under the subordinated debt indenture with respect to such subordinated debt securities (other than an event of default arising from our filing for bankruptcy or the occurrence of other events of bankruptcy, insolvency or reorganization relating to us), if the holders of the corresponding subordinated debt securities or the subordinated debt trustee have not done so. See "Description of Debt Securities We May Offer — Default, Remedies and Waiver of Default — Events of Default" above for a description of the events of default under the subordinated debt indenture.

The holders of a majority in liquidation amount of all outstanding capital securities of a series may, on behalf of all holders of that series, waive any past default under the subordinated debt indenture with respect to the corresponding subordinated debt securities, except any default in the payment of principal, premium or interest with respect to those debt securities or a non-payment default with respect to a provision of that indenture that cannot be modified without the consent of the holder of each of those debt securities affected.

The holders of related capital securities will not be able to exercise directly any remedies or take any action available to the holders of the corresponding subordinated debt securities other than those set forth in the three preceding paragraphs.

Interest Payment Dates and Record Dates

The provisions relating to interest payment dates and record dates in respect of the corresponding subordinated debt securities will be amended to be consistent with corresponding provisions relating to the capital securities, as set forth in the applicable prospectus supplement.

Guarantees and Expense Agreements

The following description summarizes the material provisions of the guarantees and the agreements as to expenses and liabilities. This description is not complete and is subject to, and is qualified in its entirety by reference to, all of the provisions of each guarantee and each expense agreement, including the definitions therein, and the Trust Indenture Act. The form of the guarantee and the

expense agreement have been filed as an exhibit to our SEC registration statement. Reference in this summary to capital securities means the capital securities issued by the related Issuer Trust to which a guarantee or expense agreement relates. Whenever particular defined terms of the guarantees or expense agreements are referred to in this prospectus or in a prospectus supplement, those defined terms are incorporated in this prospectus or the prospectus supplement by reference.

The Guarantees

A guarantee will be executed and delivered by us at the same time each Issuer Trust issues its capital securities. Each guarantee is for the benefit of the holders from time to time of the capital securities. The Bank of New York will act as indenture trustee (referred to below as the "guarantee trustee") under each guarantee for the purposes of compliance with the Trust Indenture Act and each guarantee will be qualified as an indenture under the Trust Indenture Act. The guarantee trustee will hold each guarantee for the benefit of the holders of the related Issuer Trust's capital securities.

We will irrevocably and unconditionally agree to pay in full on a subordinated basis, to the extent described below, the guarantee payments (as defined below) to the holders of the capital securities, as and when due, regardless of any defense that the Issuer Trust may have or assert other than the defense of payment. The following payments or distributions with respect to the capital securities, to the extent not paid by or on behalf of the related Issuer Trust (referred to as the "guarantee payments"), will be subject to the related guarantee:

- any accumulated and unpaid distributions required to be paid on the capital securities, to the extent that the Issuer Trust has funds legally and immediately available to pay them;
- any redemption price required to be paid on the capital securities, to the extent that the Issuer Trust has funds legally and immediately available to pay it; and
- upon a voluntary or involuntary termination, winding up or liquidation of the Issuer Trust (unless the corresponding subordinated debt securities are distributed to holders of such capital securities in exchange for their capital securities), the lesser of:
  - the liquidation distribution for the capital securities; and
  - the amount of assets of the Issuer Trust remaining available for distribution to holders of capital securities after satisfaction of liabilities to creditors of the Issuer Trust as required by applicable law.

Our obligation to make a guarantee payment may be satisfied by direct payment of the required amounts by us to the holders of the applicable capital securities or by causing the Issuer Trust to pay these amounts to the holders.

Each guarantee will be an irrevocable and unconditional guarantee on a subordinated basis of the related Issuer Trust's obligations under the capital securities, but will apply only to the extent that the related Issuer Trust has funds sufficient to make such payments, and is not a guarantee of collection. See "— Status of the Guarantees" below.

If and to the extent we do not make payments on the corresponding subordinated debt securities held by the Issuer Trust, the Issuer Trust will not be able to make payments on the capital securities and will not have funds available to do so. Each guarantee constitutes an unsecured obligation of ours and will rank subordinate and junior in right of payment to all of our senior indebtedness. See "— Status of the Guarantees" below. Because we are a holding company, our right to participate in any distribution of assets of any subsidiary upon such subsidiary's liquidation or reorganization or otherwise is subject to the prior claims of creditors of that subsidiary, except to the extent we may ourselves be recognized as a creditor of that subsidiary. Accordingly, our obligations under the guarantees will be effectively subordinated to all existing and future liabilities of our subsidiaries, and claimants should look only to our assets for payments. Except as otherwise provided in the applicable prospectus supplement, the guarantees do not limit the incurrence or issuance of other secured or

unsecured debt of ours, including senior indebtedness, whether under the subordinated debt indenture, any other existing indenture or any other indenture that we may enter into in the future or otherwise.

We have, through the applicable guarantee, the applicable trust agreement, the applicable series of corresponding subordinated debt securities, the subordinated debt indenture and the applicable expense agreement, taken together, fully, irrevocably and unconditionally guaranteed all of the Issuer Trust's obligations under the related capital securities. No single document standing alone or operating in conjunction with fewer than all of the other documents constitutes a guarantee. It is only the combined operation of these documents that has the effect of providing a full, irrevocable and unconditional guarantee of an Issuer Trust's obligations under its capital securities. See "Relationship Among the Capital Securities and the Related Instruments" below.

Status of the Guarantees

Each guarantee will constitute an unsecured obligation of ours and will be subordinated in right of payment to all of our senior indebtedness in the same manner as the corresponding subordinated debt securities. See "Corresponding Subordinated Debt Securities — Subordination" above.

Each guarantee will constitute a guarantee of payment and not of collection (*i.e.*, the guaranteed party may institute a legal proceeding directly against us to enforce its rights under the guarantee without first instituting a legal proceeding against any other person or entity). Each guarantee will be held for the benefit of the holders of the related capital securities. Each guarantee will not be discharged except by payment of the guarantee payments in full to the extent not paid by the Issuer Trust or upon distribution to the holders of the capital securities of the corresponding subordinated debt securities. None of the guarantees places a limitation on the amount of additional senior indebtedness that may be incurred by us. We expect from time to time to incur additional indebtedness constituting senior indebtedness.

Amendments and Assignment

Except with respect to any changes which do not materially adversely affect the material rights of holders of the related capital securities (in which case no vote of the holders will be required), no guarantee may be amended without the prior approval of the holders of a majority of the related outstanding capital securities. The manner of obtaining any such approval will be as described above under "— Voting Rights; Amendment of Each Trust Agreement". All guarantees and agreements contained in each guarantee will bind our successors, assigns, receivers, trustees and representatives and will inure to the benefit of the holders of the related capital securities then outstanding. We may not assign our obligations under the guarantees except in connection with a consolidation, merger or amalgamation, or sale of all or substantially all our assets, involving us that is permitted under the terms of the subordinated debt indenture.

Events of Default

An event of default under each guarantee will occur upon our failure to perform any of our payment obligations under the guarantee or to perform any non-payment obligations if this non-payment default remains unremedied for 30 days. The holders of a majority of the related capital securities then outstanding have the right to direct the time, method and place of conducting any proceeding for any remedy available to the guarantee trustee in respect of the guarantee or to direct the exercise of any trust or power conferred upon the guarantee trustee under the guarantee.

We, as guarantor, are required to file annually with the guarantee trustee a certificate as to whether or not we are in compliance with all the conditions and covenants applicable to us under the guarantee.

Information Concerning the Guarantee Trustee

The guarantee trustee, other than during the occurrence and continuance of a default by us in performance of any guarantee, undertakes to perform only those duties specifically set forth in each guarantee and, after default with respect to any guarantee, must exercise the same degree of care and skill as a prudent person would exercise or use in the conduct of his or her own affairs. Subject to this provision, the guarantee trustee is under no obligation to exercise any of the powers vested in it by any guarantee at the request of any holder of any capital securities unless it is offered reasonable indemnity against the costs, expenses and liabilities that might be incurred as a result.

Termination of the Guarantees

Each guarantee will terminate and be of no further force and effect upon:

- the guarantee payments having been paid in full by us, the trust or both; or
- the distribution of corresponding subordinated debt securities to the holders of the related capital securities in exchange for their capital securities.

Each guarantee will continue to be effective or will be reinstated, as the case may be, if at any time any holder of the related capital securities must restore payment of any sums paid under the capital securities or the guarantee in connection with a bankruptcy, insolvency, or similar proceeding involving the Issuer Trust.

Governing Law

Each guarantee will be governed by and construed in accordance with the laws of the State of New York.

The Expense Agreements

Pursuant to the expense agreement that will be entered into by us under each trust agreement, we will irrevocably and unconditionally guarantee to each person or entity to whom the Issuer Trust becomes indebted or liable the full payment of any costs, expenses or liabilities of the Issuer Trust, other than obligations of the Issuer Trust to pay to the holders of any capital securities or other similar interests in the Issuer Trust the amounts owed to holders pursuant to the terms of the capital securities or other similar interests, as the case may be. The expense agreement will be enforceable by third parties.

Our obligations under each expense agreement will be subordinated in right of payment to the same extent as each guarantee. Our obligations under each expense agreement will be subject to provisions regarding amendment, termination, assignment, succession and governing law similar to those applicable to each guarantee.

Relationship Among the Capital Securities and the Related Instruments

The following description of the relationship among the capital securities, the corresponding subordinated debt securities, the relevant expense agreement and the relevant guarantee is not complete and is subject to, and is qualified in its entirety by reference to, each trust agreement, the subordinated debt indenture and the form of guarantee, each of which is incorporated as an exhibit to our SEC registration statement, and the Trust Indenture Act.

Full and Unconditional Guarantee

Payments of distributions and other amounts due on the capital securities (to the extent the related Issuer Trust has funds available for the payment of such distributions) are irrevocably guaranteed by us as described above under "— Guarantees and Expense Agreements — The

Guarantees". Taken together, our obligations under each series of corresponding subordinated debt securities, the subordinated debt indenture, the related trust agreement, the related expense agreement, and the related guarantee provide, in the aggregate, a full, irrevocable and unconditional guarantee of payments of distributions and other amounts due on the related capital securities. No single document standing alone or operating in conjunction with fewer than all of the other documents constitutes a guarantee. It is only the combined operation of these documents that has the effect of providing a full, irrevocable and unconditional guarantee of the Issuer Trust's obligations under the related capital securities. If and to the extent that we do not make payments on any series of corresponding subordinated debt securities, the Issuer Trust will not pay distributions or other amounts due on its related capital securities. The guarantees do not cover payment of any amounts when the related Issuer Trust does not have sufficient funds to pay such amounts. In such an event, the remedy of a holder of any capital securities is to institute a legal proceeding directly against us pursuant to the terms of the subordinated debt indenture for enforcement of our obligations under the corresponding subordinated debt securities. Our obligations under each guarantee are subordinate and junior in right of payment to all of our senior indebtedness.

If we make payment on the corresponding subordinated debt securities and the relevant Issuer Trust has funds available to make payments on its related capital securities but fails to do so, a holder of such capital securities may begin a legal proceeding against us to enforce our obligations under the related guarantee to make these payments or to cause the Issuer Trust to make these payments. In the event an Issuer Trust receives payments on the corresponding subordinated debt securities, but these funds are available for payment on the related capital securities only after claims made by creditors of the trust are paid, we would be obligated under the related expense agreement to pay those claims.

Sufficiency of Payments

As long as payments of interest and other payments are made when due on each series of corresponding subordinated debt securities, such payments will be sufficient to cover distributions and other payments due on the related capital securities, primarily because:

- the aggregate principal amount of each series of corresponding subordinated debt securities will be equal to the sum of the aggregate stated liquidation amount of the related capital securities and related trust common securities;
- the interest rate and interest and other payment dates on each series of corresponding subordinated debt securities will match the distribution rate and distribution and other payment dates for the related capital securities;
- we will pay, under the related expense agreement, for all and any costs, expenses and liabilities of the Issuer Trust except the Issuer Trust's obligations to holders of its capital securities under the capital securities; and
- each trust agreement provides that the Issuer Trust will not engage in any activity that is inconsistent with the limited purposes of such Issuer Trust.

Notwithstanding anything to the contrary in the subordinated debt indenture, we have the right to set-off any payment we are otherwise required to make under the subordinated debt indenture with a payment we make under the related guarantee.

Enforcement Rights of Holders of Capital Securities

A holder of any related capital security may, to the extent permissible under applicable law, institute a legal proceeding directly against us to enforce its rights under the subordinated debt indenture or the related guarantee without first instituting a legal proceeding against the guarantee trustee, the related Issuer Trust or any other person or entity.

A default or event of default under any of our senior indebtedness would not constitute a default or event of default with respect to any series of capital securities or the corresponding subordinated debt securities. In the event of payment defaults under, or acceleration of, or defaults that permit acceleration of, our senior indebtedness, or acceleration of the corresponding subordinated debt securities, the subordination provisions of the subordinated debt indenture provide that no payments may be made in respect of the corresponding subordinated debt securities until the senior indebtedness has been paid in full or any payment default has been cured or waived.

Limited Purpose of Issuer Trusts

Each Issuer Trust's capital securities evidence a preferred and undivided beneficial interest in the Issuer Trust, and each Issuer Trust exists for the sole purpose of issuing its capital securities and trust common securities and investing the proceeds thereof in corresponding subordinated debt securities and engaging in only those other activities necessary or incidental thereto. A principal difference between the rights of a holder of a capital security and a holder of the corresponding subordinated debt security is that a holder of a corresponding subordinated debt security is entitled to receive from us the principal amount of and interest accrued on corresponding subordinated debt securities held, while a holder of capital securities is entitled to receive distributions from the Issuer Trust (or from us under the applicable guarantee) if and to the extent the Issuer Trust has funds available for the payment of such distributions.

Rights Upon Dissolution

Upon any voluntary or involuntary dissolution of any Issuer Trust (except in connection with the redemption of all capital securities), the holders of the related capital securities will be entitled to receive a like amount of corresponding subordinated debt securities in exchange for their capital securities, subject to prior satisfaction of liabilities to creditors of the trust. If the property trustee determines that a distribution of subordinated debt securities is not practical, the holders of capital securities will be entitled to receive a liquidation distribution out of the assets held by the trust after satisfaction of those liabilities. See "— Liquidation Distribution Upon Dissolution" above. Upon any voluntary or involuntary liquidation or bankruptcy of ours, the property trustee, as holder of the corresponding subordinated debt securities, would be a subordinated creditor of ours, subordinated in right of payment to all senior indebtedness as set forth in the subordinated debt indenture, but entitled to receive payment in full of principal and interest, before any stockholders of ours receive payments or distributions. Since we are the guarantor under each guarantee and have agreed, under the related expense agreement, to pay for all costs, expenses and liabilities of each Issuer Trust (other than the Issuer Trust's obligations to the holders of its capital securities), the positions of a holder of such capital securities and a holder of such corresponding subordinated debt securities relative to other creditors and to our stockholders in the event of our liquidation or bankruptcy are expected to be substantially the same.

Notices

Notices to be given to holders of a global capital security will be given only to the depositary, in accordance with its applicable policies as in effect from time to time. Notices to be given to holders of any capital securities not in global form will be sent by mail to the respective addresses of the holders as they appear in the trustee's records, and will be deemed given when mailed. Neither the failure to give any notice to a particular holder, nor any defect in a notice given to a particular holder, will affect the sufficiency of any notice given to another holder.

Book-entry and other indirect owners should consult their banks or brokers for information on how they will receive notices.

DESCRIPTION OF CAPITAL STOCK OF THE GOLDMAN SACHS GROUP, INC.

Pursuant to our restated certificate of incorporation, our authorized capital stock consists of 4,350,000,000 shares, each with a par value of $0.01 per share, of which:

- 150,000,000 shares are designated as preferred stock,
  - 30,000 shares of which (designated as Floating Rate Non-Cumulative Preferred Stock, Series A) are issued and outstanding as of the date of this prospectus with a $25,000 liquidation preference per share,
  - 32,000 shares of which (designated as 6.20% Non-Cumulative Preferred Stock, Series B) are issued and outstanding as of the date of this prospectus with a $25,000 liquidation preference per share,
  - 8,000 shares of which (designated as Floating Rate Non-Cumulative Preferred Stock, Series C) are issued and outstanding as of the date of this prospectus with a $25,000 liquidation preference per share,
  - 54,000 shares of which (designated as Floating Rate Non-Cumulative Preferred Stock, Series D) are issued and outstanding as of the date of this prospectus with a $25,000 liquidation preference per share;
- 4,000,000,000 shares are designated as common stock, 425,832,104 shares of which were outstanding as of September 22, 2006; and
- 200,000,000 shares are designated as nonvoting common stock, none of which are outstanding.

All outstanding shares of common stock are validly issued, fully paid and nonassessable.

The shareholders' agreement containing provisions relating to the voting and disposition of certain shares of common stock is described in our Annual Report on 10-K for the fiscal year ended November 25, 2005, which is incorporated by reference in this prospectus.

Preferred Stock

Our authorized capital stock includes 150,000,000 shares of preferred stock. Our board of directors is authorized to divide the preferred stock into series and, with respect to each series, to determine the designations and the powers, preferences and rights, and the qualifications, limitations and restrictions thereof, including the dividend rights, conversion or exchange rights, voting rights, redemption rights and terms, liquidation preferences, sinking fund provisions and the number of shares constituting the series. Our board of directors could, without shareholder approval, issue preferred stock with voting and other rights that could adversely affect the voting power of the holders of common stock and which could have certain anti-takeover effects.

Common Stock

Each holder of common stock is entitled to one vote for each share owned of record on all matters submitted to a vote of shareholders. There are no cumulative voting rights. Accordingly, the holders of a plurality of the shares of common stock voting for the election of directors can elect all the directors if they choose to do so, subject to any voting rights of holders of preferred stock to elect directors.

Subject to the preferential rights of any holders of any outstanding series of preferred stock, the holders of common stock, together with the holders of the nonvoting common stock, are entitled to such dividends and distributions, whether payable in cash or otherwise, as may be declared from time to time by our board of directors from legally available funds. Subject to the preferential rights of holders of any outstanding series of preferred stock, upon our liquidation, dissolution or winding-up and after payment of all prior claims, the holders of common stock, with the shares of the common

stock and the nonvoting common stock being considered as a single class for this purpose, will be entitled to receive pro rata all our assets. Other than the shareholder protection rights discussed below, holders of common stock have no redemption or conversion rights or preemptive rights to purchase or subscribe for securities of Goldman Sachs.

Nonvoting Common Stock

The nonvoting common stock has the same rights and privileges as, ranks equally and shares proportionately with, and is identical in all respects as to all matters to, the common stock, except that the nonvoting common stock has no voting rights other than those voting rights required by law.

Shareholder Protection Rights

Each share of common stock has attached to it a shareholder protection right. The shareholder protection rights are currently represented only by the certificates for the shares and will not trade separately from the shares unless and until:

- it is announced by Goldman Sachs that a person or group has become the beneficial owner of 15% or more of the outstanding common stock (other than persons deemed to beneficially own common stock solely because they are parties to the shareholders' agreement, members of the shareholders' committee or certain other persons) (an "acquiring person"); or
- ten business days (or such later date as our board of directors may fix by resolution) after the date a person or group commences a tender or exchange offer that would result in such person or group becoming an acquiring person.

If and when the shareholder protection rights separate and prior to the date of the announcement by Goldman Sachs that any person has become an acquiring person, each shareholder protection right will entitle the holder to purchase 1/100 of a share of Series A participating preferred stock for an exercise price of $250. Each 1/100 of a share of Series A participating preferred stock would have economic and voting terms equivalent to one share of common stock.

Upon the date of the announcement by Goldman Sachs that any person or group has become an acquiring person, each shareholder protection right (other than shareholder protection rights beneficially owned by the acquiring person or their transferees, which shareholder protection rights become void) will entitle its holder to purchase, for the exercise price, a number of shares of common stock having a market value of twice the exercise price. Also, if, after the date of the announcement by Goldman Sachs that any person has become an acquiring person, the acquiring person controls our board of directors and:

- Goldman Sachs is involved in a merger or similar form of business combination and (i) any term of the transaction provides for different treatment of the shares of capital stock held by the acquiring person as compared to the shares of capital stock held by all other shareholders or (ii) the person with whom such transaction occurs is the acquiring person or an affiliate thereof; or
- Goldman Sachs sells or transfers assets representing more than 50% of its assets or generating more than 50% of its operating income or cash flow to any person other than Goldman Sachs or its wholly owned subsidiaries,

then each shareholder protection right will entitle its holder to purchase, for the exercise price, a number of shares of capital stock with the greatest voting power in respect of the election of directors of either the acquiring person or the other party to such transaction, depending on the circumstances of the transaction, having a market value of twice the exercise price. If any person or group acquires from 15% to and including 50% of the common stock, our board of directors may, at its option,

exchange each outstanding shareholder protection right, except for those held by an acquiring person or their transferees, for one share of common stock.

The shareholder protection rights may be redeemed by our board of directors for $0.01 per shareholder protection right prior to the date of the announcement by Goldman Sachs that any person has become an acquiring person. Our charter permits this redemption right to be exercised by our board of directors (or certain directors specified or qualified by the terms of the instrument governing the shareholder protection rights).

The shareholder protection rights will not prevent a takeover of Goldman Sachs. However, these rights may cause substantial dilution to a person or group that acquires 15% or more of the common stock unless the shareholder protection rights are first redeemed by our board of directors.

Limitation of Liability and Indemnification Matters

Our charter provides that a director of Goldman Sachs will not be liable to Goldman Sachs or its shareholders for monetary damages for breach of fiduciary duty as a director, except in certain cases where liability is mandated by the Delaware General Corporation Law. Our by-laws provide for indemnification, to the fullest extent permitted by law, of any person made or threatened to be made a party to any action, suit or proceeding by reason of the fact that such person is or was a director or officer of Goldman Sachs, or is or was a director of a subsidiary of Goldman Sachs, or is or was a member of the shareholders' committee acting under the shareholders' agreement or, at the request of Goldman Sachs, serves or served as a director or officer of or in any other capacity for, or in relation to, any other enterprise, against all expenses, liabilities, losses and claims actually incurred or suffered by such person in connection with the action, suit or proceeding. Our by-laws also provide that, to the extent authorized from time to time by our board of directors, Goldman Sachs may provide to any one or more employees and other agents of Goldman Sachs or any subsidiary or other enterprise, rights of indemnification and to receive payment or reimbursement of expenses, including attorneys' fees, that are similar to the rights conferred by the by-laws on directors and officers of Goldman Sachs or any subsidiary or other enterprise.

Charter Provisions Approving Certain Actions

Our charter provides that our board of directors may determine to take the following actions, in its sole discretion, and Goldman Sachs and each shareholder of Goldman Sachs will, to the fullest extent permitted by law, be deemed to have approved and ratified, and waived any claim relating to, the taking of any of these actions:

- causing Goldman Sachs to register with the SEC for resale shares of common stock held by our directors, employees and former directors and employees and our subsidiaries and affiliates and former partners and employees of The Goldman Sachs Group, L.P. and its subsidiaries and affiliates; and
- making payments to, and other arrangements with, certain former limited partners of Goldman Sachs, including managing directors who were profit participating limited partners, in order to compensate them for, or to prevent, significantly disproportionate adverse tax or other consequences arising out of our incorporation.

Section 203 of the Delaware General Corporation Law

Goldman Sachs is subject to the provisions of Section 203 of the Delaware General Corporation Law. In general, Section 203 prohibits a publicly held Delaware corporation from engaging in a "business combination" with an "interested stockholder" for a period of three years after the date of the transaction in which the person became an interested stockholder, unless the business combination is approved in a prescribed manner. A "business combination" includes a merger, asset sale or a

transaction resulting in a financial benefit to the interested stockholder. An "interested stockholder" is a person who, together with affiliates and associates, owns (or, in certain cases, within the preceding three years, did own) 15% or more of the corporation's outstanding voting stock. Under Section 203, a business combination between Goldman Sachs and an interested stockholder is prohibited unless it satisfies one of the following conditions:

- prior to the stockholder becoming an interested stockholder, the board of directors of Goldman Sachs must have previously approved either the business combination or the transaction that resulted in the stockholder becoming an interested stockholder;
- on consummation of the transaction that resulted in the stockholder becoming an interested stockholder, the interested stockholder owned at least 85% of the voting stock of Goldman Sachs outstanding at the time the transaction commenced, excluding, for purposes of determining the number of shares outstanding, shares owned by persons who are directors and officers; or
- the business combination is approved by the board of directors of Goldman Sachs and authorized at an annual or special meeting of the stockholders by the affirmative vote of at least 66⅔% of the outstanding voting stock which is not owned by the interested stockholder.

Our board of directors has adopted a resolution providing that the shareholders' agreement will not create an "interested stockholder".

Certain Anti-Takeover Matters

Our charter and by-laws include a number of provisions that may have the effect of encouraging persons considering unsolicited tender offers or other unilateral takeover proposals to negotiate with our board of directors rather than pursue non-negotiated takeover attempts. These provisions include:

Constituency Provision

In accordance with our charter, a director of Goldman Sachs may (but is not required to) in taking any action (including an action that may involve or relate to a change or potential change in control of Goldman Sachs), consider, among other things, the effects that Goldman Sachs' actions may have on other interests or persons (including its employees, former partners of The Goldman Sachs Group, L.P. and the community) in addition to our shareholders.

Advance Notice Requirements

Our by-laws establish advance notice procedures with regard to shareholder proposals relating to the nomination of candidates for election as directors or new business to be brought before meetings of shareholders of Goldman Sachs. These procedures provide that notice of such shareholder proposals must be timely given in writing to the Secretary of Goldman Sachs prior to the meeting at which the action is to be taken. Generally, to be timely, notice must be received at the principal executive offices of Goldman Sachs not less than 90 days nor more than 120 days prior to the anniversary date of the annual meeting for the preceding year. The notice must contain certain information specified in the by-laws.

No Ability of Shareholders to Call Special Meetings

Our charter and by-laws deny shareholders the right to call a special meeting of shareholders. Our charter and by-laws provide that special meetings of the shareholders may be called only by a majority of the board of directors.

No Written Consent of Shareholders

Our charter requires all shareholder actions to be taken by a vote of the shareholders at an annual or special meeting, and does not permit our shareholders to act by written consent without a meeting.

Majority Vote Needed for Shareholder Proposals

Our by-laws require that any shareholder proposal be approved by a majority of all of the outstanding shares of common stock and not by only a majority of the shares present at the meeting and entitled to vote. This requirement may make it more difficult to approve shareholder resolutions.

Amendment of By-Laws and Charter

Our charter requires the approval of not less than 80% of the voting power of all outstanding shares of Goldman Sachs' capital stock entitled to vote to amend any by-law by shareholder action or the charter provisions described in this section. Those provisions make it more difficult to dilute the anti-takeover effects of our by-laws and our charter.

Blank Check Preferred Stock

Our charter provides for 150,000,000 authorized shares of preferred stock. The existence of authorized but unissued shares of preferred stock may enable the board of directors to render more difficult or to discourage an attempt to obtain control of Goldman Sachs by means of a merger, tender offer, proxy contest or otherwise. For example, if in the due exercise of its fiduciary obligations, the board of directors were to determine that a takeover proposal is not in the best interests of Goldman Sachs, the board of directors could cause shares of preferred stock to be issued without shareholder approval in one or more private offerings or other transactions that might dilute the voting or other rights of the proposed acquiror or insurgent shareholder or shareholder group. In this regard, the charter grants our board of directors broad power to establish the rights and preferences of authorized and unissued shares of preferred stock. The issuance of shares of preferred stock could decrease the amount of earnings and assets available for distribution to holders of shares of common stock. The issuance may also adversely affect the rights and powers, including voting rights, of such holders and may have the effect of delaying, deterring or preventing a change in control of Goldman Sachs.

Listing

The common stock is listed on the NYSE under the symbol "GS".

Transfer Agent

The transfer agent for the common stock is Mellon Investor Services LLC.

LEGAL OWNERSHIP AND BOOK-ENTRY ISSUANCE

In this section, we describe special considerations that will apply to registered securities issued in global — *i.e.*, book-entry — form. First we describe the difference between legal ownership and indirect ownership of registered securities. Then we describe special provisions that apply to global securities.

Who Is the Legal Owner of a Registered Security?

Each debt security, warrant, purchase contract, unit, share of preferred stock and depositary share in registered form will be represented either by a certificate issued in definitive form to a particular investor or by one or more global securities representing the entire issuance of securities. We refer to those who have securities registered in their own names, on the books that we or the trustee, warrant agent or other agent maintain for this purpose, as the "holders" of those securities. These persons are the legal holders of the securities. We refer to those who, indirectly through others, own beneficial interests in securities that are not registered in their own names as indirect owners of those securities. As we discuss below, indirect owners are not legal holders, and investors in securities issued in book-entry form or in street name will be indirect owners.

Book-Entry Owners

We or the Issuer Trusts, as applicable, will issue each security in book-entry form only. This means securities will be represented by one or more global securities registered in the name of a financial institution that holds them as depositary on behalf of other financial institutions that participate in the depositary's book-entry system. These participating institutions, in turn, hold beneficial interests in the securities on behalf of themselves or their customers.

Under each indenture, only the person in whose name a security is registered is recognized as the holder of that security. Consequently, for securities issued in global form, we or the Issuer Trusts will recognize only the depositary as the holder of the securities and we or the Issuer Trusts will make all payments on the securities, including deliveries of any property other than cash, to the depositary. The depositary passes along the payments it receives to its participants, which in turn pass the payments along to their customers who are the beneficial owners. The depositary and its participants do so under agreements they have made with one another or with their customers; they are not obligated to do so under the terms of the securities.

As a result, investors will not own securities directly. Instead, they will own beneficial interests in a global security, through a bank, broker or other financial institution that participates in the depositary's book-entry system or holds an interest through a participant. As long as the securities are issued in global form, investors will be indirect owners, and not holders, of the securities.

Street Name Owners

In the future we or the Issuer Trusts, as applicable, may terminate a global security or issue securities initially in non-global form. In these cases, investors may choose to hold their securities in their own names or in street name. Securities held by an investor in street name would be registered in the name of a bank, broker or other financial institution that the investor chooses, and the investor would hold only a beneficial interest in those securities through an account he or she maintains at that institution.

For securities held in street name, we or the Issuer Trusts will recognize only the intermediary banks, brokers and other financial institutions in whose names the securities are registered as the holders of those securities and we or the Issuer Trusts will make all payments on those securities, including deliveries of any property other than cash, to them. These institutions pass along the payments they receive to their customers who are the beneficial owners, but only because they agree

to do so in their customer agreements or because they are legally required to do so. Investors who hold securities in street name will be indirect owners, not holders, of those securities.

Legal Holders

Our obligations, the obligations of the Issuer Trusts, as well as the obligations of the trustee under any indenture and the obligations, if any, of any warrant agents and unit agents and any other third parties employed by us, the trustee or any of those agents, run only to the holders of the securities. Neither we nor the Issuer Trusts have obligations to investors who hold beneficial interests in global securities, in street name or by any other indirect means. This will be the case whether an investor chooses to be an indirect owner of a security or has no choice because we or the Issuer Trusts, as applicable, are issuing the securities only in global form.

For example, once we or the Issuer Trusts, as applicable, make a payment or give a notice to the holder, we or the Issuer Trusts, as applicable, have no further responsibility for that payment or notice even if that holder is required, under agreements with depositary participants or customers or by law, to pass it along to the indirect owners but does not do so. Similarly, if we or the Issuer Trusts want to obtain the approval of the holders for any purpose — *e.g.*, to amend the indenture for a series of debt securities or warrants or the warrant agreement for a series of warrants or to relieve us of the consequences of a default or of our obligation to comply with a particular provision of an indenture — we or the Issuer Trusts would seek the approval only from the holders, and not the indirect owners, of the relevant securities. Whether and how the holders contact the indirect owners is up to the holders.

When we refer to "you" in this prospectus, we mean those who invest in the securities being offered by this prospectus, whether they are the holders or only indirect owners of those securities. When we refer to "your securities" in this prospectus, we mean the securities in which you will hold a direct or indirect interest.

Special Considerations for Indirect Owners

If you hold securities through a bank, broker or other financial institution, either in book-entry form or in street name, you should check with your own institution to find out:

- how it handles securities payments and notices;
- whether it imposes fees or charges;
- whether and how you can instruct it to exercise any rights to purchase or sell warrant property under a warrant or purchase contract property under a purchase contract or to exchange or convert a security for or into other property;
- how it would handle a request for the holders' consent, if ever required;
- whether and how you can instruct it to send you securities registered in your own name so you can be a holder, if that is permitted in the future;
- how it would exercise rights under the securities if there were a default or other event triggering the need for holders to act to protect their interests; and
- if the securities are in book-entry form, how the depositary's rules and procedures will affect these matters.

What Is a Global Security?

We or the Issuer Trusts, as applicable, will issue each security in book-entry form only. Each security issued in book-entry form will be represented by a global security that we or the Issuer Trusts deposit with and register in the name of one or more financial institutions or clearing systems, or their nominees, which we select. A financial institution or clearing system that we or the Issuer Trusts

select for any security for this purpose is called the "depositary" for that security. A security will usually have only one depositary but it may have more.

Each series of securities will have one or more of the following as the depositaries:

- The Depository Trust Company, New York, New York, which is known as "DTC";
- a financial institution holding the securities on behalf of Euroclear Bank S.A./N.V., as operator of the Euroclear system, which is known as "Euroclear";
- a financial institution holding the securities on behalf of Clearstream Banking, société anonyme, Luxembourg, which is known as "Clearstream"; and
- any other clearing system or financial institution named in the applicable prospectus supplement.

The depositaries named above may also be participants in one another's systems. Thus, for example, if DTC is the depositary for a global security, investors may hold beneficial interests in that security through Euroclear or Clearstream, as DTC participants. The depositary or depositaries for your securities will be named in your prospectus supplement; if none is named, the depositary will be DTC.

A global security may represent one or any other number of individual securities. Generally, all securities represented by the same global security will have the same terms. We or the Issuer Trusts may, however, issue a global security that represents multiple securities of the same kind, such as debt securities, that have different terms and are issued at different times. We call this kind of global security a master global security. Your prospectus supplement will not indicate whether your securities are represented by a master global security.

A global security may not be transferred to or registered in the name of anyone other than the depositary or its nominee, unless special termination situations arise. We describe those situations below under "— Holder's Option to Obtain a Non-Global Security; Special Situations When a Global Security Will Be Terminated". As a result of these arrangements, the depositary, or its nominee, will be the sole registered owner and holder of all securities represented by a global security, and investors will be permitted to own only indirect interests in a global security. Indirect interests must be held by means of an account with a broker, bank or other financial institution that in turn has an account with the depositary or with another institution that does. Thus, an investor whose security is represented by a global security will not be a holder of the security, but only an indirect owner of an interest in the global security.

If the prospectus supplement for a particular security indicates that the security will be issued in global form only, then the security will be represented by a global security at all times unless and until the global security is terminated. We describe the situations in which this can occur below under "— Holder's Option to Obtain a Non-Global Security; Special Situations When a Global Security Will Be Terminated". If termination occurs, we or the Issuer Trusts may issue the securities through another book-entry clearing system or decide that the securities may no longer be held through any book-entry clearing system.

Special Considerations for Global Securities

As an indirect owner, an investor's rights relating to a global security will be governed by the account rules of the depositary and those of the investor's financial institution or other intermediary through which it holds its interest (e.g., Euroclear or Clearstream, if DTC is the depositary), as well as general laws relating to securities transfers. We or the Issuer Trusts, as applicable, do not recognize this type of investor or any intermediary as a holder of securities and instead deal only with the depositary that holds the global security.

If securities are issued only in the form of a global security, an investor should be aware of the following:

- An investor cannot cause the securities to be registered in his or her own name, and cannot obtain non-global certificates for his or her interest in the securities, except in the special situations we describe below;
- An investor will be an indirect holder and must look to his or her own bank or broker for payments on the securities and protection of his or her legal rights relating to the securities, as we describe above under "— Who Is the Legal Owner of a Registered Security?";
- An investor may not be able to sell interests in the securities to some insurance companies and other institutions that are required by law to own their securities in non-book-entry form;
- An investor may not be able to pledge his or her interest in a global security in circumstances where certificates representing the securities must be delivered to the lender or other beneficiary of the pledge in order for the pledge to be effective;
- The depositary's policies will govern payments, deliveries, transfers, exchanges, notices and other matters relating to an investor's interest in a global security, and those policies may change from time to time. We, the Issuer Trusts, the trustee and any warrant agents and unit agents will have no responsibility for any aspect of the depositary's policies, actions or records of ownership interests in a global security. We, the Issuer Trusts, the trustee and any warrant agents and unit agents also do not supervise the depositary in any way;
- The depositary will require that those who purchase and sell interests in a global security within its book-entry system use immediately available funds and your broker or bank may require you to do so as well; and
- Financial institutions that participate in the depositary's book-entry system and through which an investor holds its interest in the global securities, directly or indirectly, may also have their own policies affecting payments, deliveries, transfers, exchanges, notices and other matters relating to the securities, and those policies may change from time to time. For example, if you hold an interest in a global security through Euroclear or Clearstream, when DTC is the depositary, Euroclear or Clearstream, as applicable, will require those who purchase and sell interests in that security through them to use immediately available funds and comply with other policies and procedures, including deadlines for giving instructions as to transactions that are to be effected on a particular day. There may be more than one financial intermediary in the chain of ownership for an investor. We or the Issuer Trusts, as applicable, do not monitor and are not responsible for the policies or actions or records of ownership interests of any of those intermediaries.

Holder's Option to Obtain a Non-Global Security; Special Situations When a Global Security Will Be Terminated

If we or the Issuer Trusts, as applicable, issue any series of securities in book-entry form but we choose to give the beneficial owners of that series the right to obtain non-global securities, any beneficial owner entitled to obtain non-global securities may do so by following the applicable procedures of the depositary, any transfer agent or registrar for that series and that owner's bank, broker or other financial institution through which that owner holds its beneficial interest in the securities. For example, in the case of a global security representing preferred stock or depositary shares, a beneficial owner will be entitled to obtain a non-global security representing its interest by making a written request to the transfer agent or other agent designated by us or the Issuer Trusts. If you are entitled to request a non-global certificate and wish to do so, you will need to allow sufficient lead time to enable us, the Issuer Trusts or our agent to prepare the requested certificate.

In addition, in a few special situations described below, a global security will be terminated and interests in it will be exchanged for certificates in non-global form representing the securities it represented. After that exchange, the choice of whether to hold the securities directly or in street name will be up to the investor. Investors must consult their own banks or brokers to find out how to have their interests in a global security transferred on termination to their own names, so that they will be holders. We have described the rights of holders and street name investors above under "— Who Is the Legal Owner of a Registered Security?".

The special situations for termination of a global security are as follows:

- if the depositary notifies us or the Issuer Trust that it is unwilling, unable or no longer qualified to continue as depositary for that global security and we do not appoint another institution to act as depositary within 60 days;
- if we or the Issuer Trust notify the trustee, warrant agent or unit agent, as applicable, that we or the Issuer Trust wish to terminate that global security; or
- in the case of a global security representing debt securities or warrants issued under an indenture, if an event of default has occurred with regard to these debt securities and has not been cured or waived.

If a global security is terminated, only the depositary, and not we, any Issuer Trust, the trustee for any debt securities, the warrant agent for any warrants or the unit agent for any units, is responsible for deciding the names of the institutions in whose names the securities represented by the global security will be registered and, therefore, who will be the holders of those securities.

Considerations Relating to Euroclear and Clearstream

Euroclear and Clearstream are securities clearance systems in Europe. Both systems clear and settle securities transactions between their participants through electronic, book-entry delivery of securities against payment.

Euroclear and Clearstream may be depositaries for a global security. In addition, if DTC is the depositary for a global security, Euroclear and Clearstream may hold interests in the global security as participants in DTC.

As long as any global security is held by Euroclear or Clearstream, as depositary, you may hold an interest in the global security only through an organization that participates, directly or indirectly, in Euroclear or Clearstream. If Euroclear or Clearstream is the depositary for a global security and there is no depositary in the United States, you will not be able to hold interests in that global security through any securities clearance system in the United States.

Payments, deliveries, transfers, exchanges, notices and other matters relating to the securities made through Euroclear or Clearstream must comply with the rules and procedures of those systems. Those systems could change their rules and procedures at any time. Neither we nor the Issuer Trusts have control over those systems or their participants, and neither we nor the Issuer Trusts take responsibility for their activities. Transactions between participants in Euroclear or Clearstream, on one hand, and participants in DTC, on the other hand, when DTC is the depositary, would also be subject to DTC's rules and procedures.

Special Timing Considerations for Transactions in Euroclear and Clearstream

Investors will be able to make and receive through Euroclear and Clearstream payments, deliveries, transfers, exchanges, notices and other transactions involving any securities held through those systems only on days when those systems are open for business. Those systems may not be open for business on days when banks, brokers and other institutions are open for business in the United States.

In addition, because of time-zone differences, U.S. investors who hold their interests in the securities through these systems and wish to transfer their interests, or to receive or make a payment or delivery or exercise any other right with respect to their interests, on a particular day may find that the transaction will not be effected until the next business day in Luxembourg or Brussels, as applicable. Thus, investors who wish to exercise rights that expire on a particular day may need to act before the expiration date. In addition, investors who hold their interests through both DTC and Euroclear or Clearstream may need to make special arrangements to finance any purchases or sales of their interests between the U.S. and European clearing systems, and those transactions may settle later than would be the case for transactions within one clearing system.

CONSIDERATIONS RELATING TO SECURITIES ISSUED IN BEARER FORM

If we or the Issuer Trusts, as applicable, issue securities in bearer, rather than registered, form, those securities will be subject to special provisions described in this section. This section primarily describes provisions relating to debt securities issued in bearer form. Other provisions may apply to securities of other kinds issued in bearer form. To the extent the provisions described in this section are inconsistent with those described elsewhere in this prospectus, they supersede those described elsewhere with regard to any bearer securities. Otherwise, the relevant provisions described elsewhere in this prospectus will apply to bearer securities.

Temporary and Permanent Bearer Global Securities

If we or the Issuer Trusts, as applicable, issue securities in bearer form, all securities of the same series and kind will initially be represented by a temporary bearer global security, which we or the Issuer Trusts will deposit with a common depositary for Euroclear and Clearstream. Euroclear and Clearstream will credit the account of each of their subscribers with the amount of securities the subscriber purchases. We or the Issuer Trusts will promise to exchange the temporary bearer global security for a permanent bearer global security, which we will deliver to the common depositary upon the later of the following two dates:

- the date that is 40 days after the later of (a) the completion of the distribution of the securities as determined by the underwriter, dealer or agent and (b) the closing date for the sale of the securities by us; we may extend this date as described below under "— Extensions for Further Issuances"; and
- the date on which Euroclear and Clearstream provide us or our agent with the necessary tax certificates described below under "— U.S. Tax Certificate Required".

Unless we or the Issuer Trusts say otherwise in the applicable prospectus supplement, owners of beneficial interests in a permanent bearer global security will be able to exchange those interests at their option, in whole but not in part, for:

- non-global securities in bearer form with interest coupons attached, if applicable; or
- non-global securities in registered form without coupons attached.

A beneficial owner will be able to make this exchange by giving us or our designated agent 60 days' prior written notice in accordance with the terms of the securities.

Extensions for Further Issuances

Without the consent of the trustee, any holders or any other person, we or the Issuer Trusts, as applicable, may issue additional securities identical to a prior issue from time to time. If we issue additional securities before the date on which we would otherwise be required to exchange the temporary bearer global security representing the prior issue for a permanent bearer global security as described above, that date will be extended until the 40th day after the completion of the distribution and the closing, whichever is later, for the additional securities. Extensions of this kind may be repeated if we or the Issuer Trusts sell additional identical securities. As a result of these extensions, beneficial interests in the temporary bearer global security may not be exchanged for interests in a permanent bearer global security until the 40th day after the additional securities have been distributed and sold.

U.S. Tax Certificate Required

We or the Issuer Trusts, as applicable, will not pay or deliver interest or other amounts in respect of any portion of a temporary bearer global security unless and until Euroclear or Clearstream delivers to us, the Issuer Trusts or our agent a tax certificate with regard to the owners of the beneficial interests in that portion of the global security. Also, neither we nor any Issuer Trust will exchange any

portion of a temporary bearer global security for a permanent bearer global security unless and until we or the Issuer Trusts receive from Euroclear or Clearstream a tax certificate with regard to the owners of the beneficial interests in the portion to be exchanged. In each case, this tax certificate must state that each of the relevant owners:

- is not a United States person, as defined below under "— Limitations on Issuance of Bearer Securities";
- is a foreign branch of a United States financial institution purchasing for its own account or for resale, or is a United States person who acquired the security through a financial institution of this kind and who holds the security through that financial institution on the date of certification, provided in either case that the financial institution provides a certificate to us or the distributor selling the security to it stating that it agrees to comply with the requirements of Section 165(j)(3)(A), (B) or (C) of the U.S. Internal Revenue Code and the U.S. Treasury Regulations under that Section; or
- is a financial institution holding for purposes of resale during the "restricted period", as defined in U.S. Treasury Regulations Section 1.163-5(c)(2)(i)(D)(*7*). A financial institution of this kind, whether or not it is also described in either of the two preceding bullet points, must certify that it has not acquired the security for purposes of resale directly or indirectly to a United States person or to a person within the United States or its possessions.

The tax certificate must be signed by an authorized person satisfactory to us.

No one who owns an interest in a temporary bearer global security will receive payment or delivery of any amount or property in respect of its interest, and will not be permitted to exchange its interest for an interest in a permanent bearer global security or a security in any other form, unless we, the Issuer Trusts or our agent have received the required tax certificate on its behalf.

Special requirements and restrictions imposed by United States federal tax laws and regulations will apply to bearer debt securities. We describe these below under "— Limitations on Issuance of Bearer Debt Securities".

Legal Ownership of Bearer Securities

Securities in bearer form are not registered in any name. Whoever is the bearer of the certificate representing a security in bearer form is the legal owner of that security. Legal title and ownership of bearer securities will pass by delivery of the certificates representing the securities. Thus, when we use the term "holder" in this prospectus with regard to bearer securities, we mean the bearer of those securities.

The common depositary for Euroclear and Clearstream will be the bearer, and thus the holder and legal owner, of both the temporary and permanent bearer global securities described above. Investors in those securities will own beneficial interests in the securities represented by those global securities; they will be only indirect owners, not holders or legal owners, of the securities.

As long as the common depositary is the bearer of any bearer security in global form, the common depositary will be considered the sole legal owner and holder of the securities represented by the bearer security in global form. Ownership of beneficial interests in any bearer security in global form will be shown on records maintained by Euroclear or Clearstream, as applicable, or by the common depositary on their behalf, and by the direct and indirect participants in their systems, and ownership interests can be held and transferred only through those records. We, or the Issuer Trusts, as applicable, will pay any amounts owing with respect to a bearer global security only to the common depositary.

Neither we, the Issuer Trusts, the trustee nor any agent will recognize any owner of indirect interests as a holder or legal owner. Nor will we, the Issuer Trusts, the trustee or any agent have any responsibility for the ownership records or practices of Euroclear or Clearstream, the common depositary or any direct or indirect participants in those systems or for any payments, transfers, deliveries, notices or other transactions within those systems, all of which will be subject to the rules and procedures of those systems and participants. If you own an indirect interest in a bearer global security, you must look only to the common depositary for Euroclear or Clearstream, and to their direct and indirect participants through which you hold your interest, for your ownership rights. You should read the section above entitled "Legal Ownership and Book-Entry Issuance" for more information about holding interests through Euroclear and Clearstream.

Payment and Exchange of Non-Global Bearer Securities

Payments and deliveries owing on non-global bearer securities will be made, in the case of interest payments, only to the holder of the relevant coupon after the coupon is surrendered to the paying agent. In all other cases, payments and deliveries will be made only to the holder of the certificate representing the relevant security after the certificate is surrendered to the paying agent.

Non-global bearer securities, with all unmatured coupons relating to the securities, if any, may be exchanged for a like aggregate amount of non-global bearer or registered securities of like kind. Non-global registered securities may be exchanged for a like aggregate amount of non-global registered securities of like kind, as described above in the sections on the different types of securities we may offer. However, neither we nor the Issuer Trusts will issue bearer securities in exchange for any registered securities.

Replacement certificates and coupons for non-global bearer securities will not be issued in lieu of any lost, stolen or destroyed certificates and coupons unless we, or the Issuer Trust, and our transfer agent receive evidence of the loss, theft or destruction, and an indemnity against liabilities, satisfactory to us and our agent. Upon redemption or any other settlement before the stated maturity or expiration, as well as upon any exchange, of a non-global bearer security, the holder will be required to surrender all unmatured coupons to us, the Issuer Trust, or our designated agent. If any unmatured coupons are not surrendered, we, the Issuer Trust, or our agent may deduct the amount of interest relating to those coupons from the amount otherwise payable or deliverable or we, the Issuer Trusts, or our agent may demand an indemnity against liabilities satisfactory to us and our agent.

We and the Issuer Trusts may make payments, deliveries and exchanges in respect of bearer securities in global form in any manner acceptable to us and the depositary.

Notices

If we or the Issuer Trusts are required to give notice to the holders of bearer securities, we or the Issuer Trusts will do so by publication in a daily newspaper of general circulation in a city in Western Europe. The term "daily newspaper" means a newspaper that is published on each day, other than a Saturday, Sunday or holiday, in the relevant city. If these bearer securities are listed on the Luxembourg Stock Exchange and its rules so require, that city will be Luxembourg and we expect that newspaper to be the *d'Wort*. If publication in Luxembourg is impractical, the publication will be made elsewhere in Western Europe. A notice of this kind will be presumed to have been received on the date it is first published. If we or the Issuer Trusts cannot give notice as described in this paragraph because the publication of any newspaper is suspended or it is otherwise impractical to publish the notice, then we or the Issuer Trusts will give notice in another form. That alternate form of notice will be deemed to be sufficient notice to each holder. Neither the failure to give notice to a particular holder, nor any defect in a notice given to a particular holder, will affect the sufficiency of any notice given to another holder.

We or the Issuer Trusts may give any required notice with regard to bearer securities in global form to the common depositary for the securities, in accordance with its applicable procedures. If

these provisions do not require that notice be given by publication in a newspaper, we or the Issuer Trusts may omit giving notice by publication.

Limitations on Issuance of Bearer Debt Securities

In compliance with United States federal income tax laws and regulations, bearer debt securities, including bearer debt securities in global form, will not be offered, sold, resold or delivered, directly or indirectly, in the United States or its possessions or to United States persons, as defined below, except as otherwise permitted by U.S. Treasury Regulations Section 1.163-5(c)(2)(i)(D). Any underwriters, dealers or agents participating in the offerings of bearer debt securities, directly or indirectly, must agree that they will not, in connection with the original issuance of any bearer debt securities or during the restricted period applicable under the Treasury Regulations cited earlier, offer, sell, resell or deliver, directly or indirectly, any bearer debt securities in the United States or its possessions or to United States persons, other than as permitted by the applicable Treasury Regulations described above.

In addition, any underwriters, dealers or agents must have procedures reasonably designed to ensure that their employees or agents who are directly engaged in selling bearer debt securities are aware of the above restrictions on the offering, sale, resale or delivery of bearer debt securities.

We and the Issuer Trusts will make payments on bearer debt securities only outside the United States and its possessions except as permitted by the applicable Treasury Regulations described above.

Bearer debt securities and any coupons will bear the following legend:

"Any United States person who holds this obligation will be subject to limitations under the United States income tax laws, including the limitations provided in sections 165(j) and 1287(a) of the Internal Revenue Code."

The sections referred to in this legend provide that, with exceptions, a United States person will not be permitted to deduct any loss, and will not be eligible for capital gain treatment with respect to any gain, realized on the sale, exchange or redemption of that bearer debt security or coupon.

As used in this subsection entitled "— Limitations on Issuance of Bearer Debt Securities", the term "bearer debt securities" includes bearer debt securities that are part of units. As used in this section entitled "Considerations Relating to Securities Issued in Bearer Form", "United States person" means:

- a citizen or resident of the United States;
- a corporation or partnership, including an entity treated as a corporation or partnership for United States federal income tax purposes, created or organized in or under the laws of the United States, any state of the United States or the District of Columbia;
- an estate the income of which is subject to United States federal income taxation regardless of its source; or
- a trust if a court within the United States is able to exercise primary supervision of the administration of the trust and one or more United States persons have the authority to control all substantial decisions of the trust.

"United States" means the United States of America, including the States and the District of Columbia, and "possessions" of the United States include Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, Wake Island and the Northern Mariana Islands. In addition, some trusts treated as United States persons before August 20, 1996 may elect to continue to be so treated to the extent provided in the Treasury Regulations.

CONSIDERATIONS RELATING TO INDEXED SECURITIES

We use the term "indexed securities" to mean any of the securities described in this prospectus, or any units that include securities, whose value is linked to an underlying property or index. Indexed securities may present a high level of risk, and investors in some indexed securities may lose their entire investment. In addition, the treatment of indexed securities for U.S. federal income tax purposes is often unclear due to the absence of any authority specifically addressing the issues presented by any particular indexed security. Thus, if you propose to invest in indexed securities, you should independently evaluate the federal income tax consequences of purchasing an indexed security that apply in your particular circumstances. You should also read "United States Taxation" for a discussion of U.S. tax matters.

Investors in Indexed Securities Could Lose Their Investment

The amount of principal and/or interest payable on an indexed debt security, the cash value or physical settlement value of a physically settled debt security and the cash value or physical settlement value of an indexed warrant or purchase contract will be determined by reference to the price, value or level of one or more securities, currencies, commodities or other properties, any other financial, economic or other measure or instrument, including the occurrence or non-occurrence of any event or circumstance, and/or one or more indices or baskets of any of these items. We refer to each of these as an "index". The direction and magnitude of the change in the price, value or level of the relevant index will determine the amount of principal and/or interest payable on an indexed debt security, the cash value or physical settlement value of a physically settled debt security and the cash value or physical settlement value of an indexed warrant or purchase contract. The terms of a particular indexed debt security may or may not include a guaranteed return of a percentage of the face amount at maturity or a minimum interest rate. An indexed warrant or purchase contract generally will not provide for any guaranteed minimum settlement value. Thus, if you purchase an indexed security, you may lose all or a portion of the principal or other amount you invest and may receive no interest on your investment.

The Issuer of a Security or Currency That Serves as an Index Could Take Actions That May Adversely Affect an Indexed Security

The issuer of a security that serves as an index or part of an index for an indexed security will have no involvement in the offer and sale of the indexed security and no obligations to the holder of the indexed security. The issuer may take actions, such as a merger or sale of assets, without regard to the interests of the holder. Any of these actions could adversely affect the value of a security indexed to that security or to an index of which that security is a component.

If the index for an indexed security includes a non-U.S. dollar currency or other asset denominated in a non-U.S. dollar currency, the government that issues that currency will also have no involvement in the offer and sale of the indexed security and no obligations to the holder of the indexed security. That government may take actions that could adversely affect the value of the security. See "Considerations Relating to Securities Denominated or Payable in or Linked to a Non-U.S. Dollar Currency — Government Policy Can Adversely Affect Currency Exchange Rates and an Investment in a Non-U.S. Dollar Security" below for more information about these kinds of government actions.

An Indexed Security May Be Linked to a Volatile Index, Which Could Hurt Your Investment

Some indices are highly volatile, which means that their value may change significantly, up or down, over a short period of time. The amount of principal or interest that can be expected to become payable on an indexed debt security or the expected settlement value of an indexed warrant or purchase contract may vary substantially from time to time. Because the amounts payable with respect to an indexed security are generally calculated based on the value or level of the relevant

index on a specified date or over a limited period of time, volatility in the index increases the risk that the return on the indexed security may be adversely affected by a fluctuation in the level of the relevant index.

The volatility of an index may be affected by political or economic events, including governmental actions, or by the activities of participants in the relevant markets. Any of these events or activities could adversely affect the value of an indexed security.

An Index to Which a Security Is Linked Could Be Changed or Become Unavailable

Some indices compiled by us or our affiliates or third parties may consist of or refer to several or many different securities, commodities or currencies or other instruments or measures. The compiler of such an index typically reserves the right to alter the composition of the index and the manner in which the value or level of the index is calculated. An alteration may result in a decrease in the value of or return on an indexed security that is linked to the index. The indices for our indexed securities may include published indices of this kind or customized indices developed by us or our affiliates in connection with particular issues of indexed securities.

A published index may become unavailable, or a customized index may become impossible to calculate in the normal manner, due to events such as war, natural disasters, cessation of publication of the index or a suspension or disruption of trading in one or more securities, commodities or currencies or other instruments or measures on which the index is based. If an index becomes unavailable or impossible to calculate in the normal manner, the terms of a particular indexed security may allow us to delay determining the amount payable as principal or interest on an indexed debt security or the settlement value of an indexed warrant or purchase contract, or we may use an alternative method to determine the value of the unavailable index. Alternative methods of valuation are generally intended to produce a value similar to the value resulting from reference to the relevant index. However, it is unlikely that any alternative method of valuation we use will produce a value identical to the value that the actual index would produce. If we use an alternative method of valuation for a security linked to an index of this kind, the value of the security, or the rate of return on it, may be lower than it otherwise would be.

Some indexed securities are linked to indices that are not commonly used or that have been developed only recently. The lack of a trading history may make it difficult to anticipate the volatility or other risks associated with an indexed security of this kind. In addition, trading in these indices or their underlying stocks, commodities or currencies or other instruments or measures, or options or futures contracts on these stocks, commodities or currencies or other instruments or measures, may be limited, which could increase their volatility and decrease the value of the related indexed securities or the rates of return on them.

We May Engage in Hedging Activities that Could Adversely Affect an Indexed Security

In order to hedge an exposure on a particular indexed security, we may, directly or through our affiliates, enter into transactions involving the securities, commodities or currencies or other instruments or measures that underlie the index for that security, or derivative instruments, such as swaps, options or futures, on the index or any of its component items. By engaging in transactions of this kind, we could adversely affect the value of an indexed security. It is possible that we could achieve substantial returns from our hedging transactions while the value of the indexed security may decline.

Information About Indices May Not Be Indicative of Future Performance

If we issue an indexed security, we may include historical information about the relevant index in the applicable prospectus supplement. Any information about indices that we may provide will be furnished as a matter of information only, and you should not regard the information as indicative of the range of, or trends in, fluctuations in the relevant index that may occur in the future.

We May Have Conflicts of Interest Regarding an Indexed Security

Goldman, Sachs & Co. and our other affiliates may have conflicts of interest with respect to some indexed securities. Goldman, Sachs & Co. and our other affiliates may engage in trading, including trading for hedging purposes, for their proprietary accounts or for other accounts under their management, in indexed securities and in the securities, commodities or currencies or other instruments or measures on which the index is based or in other derivative instruments related to the index or its component items. These trading activities could adversely affect the value of indexed securities. We and our affiliates may also issue or underwrite securities or derivative instruments that are linked to the same index as one or more indexed securities. By introducing competing products into the marketplace in this manner, we could adversely affect the value of an indexed security.

Goldman, Sachs & Co. or another of our affiliates may serve as calculation agent for the indexed securities and may have considerable discretion in calculating the amounts payable in respect of the securities. To the extent that Goldman, Sachs & Co. or another of our affiliates calculates or compiles a particular index, it may also have considerable discretion in performing the calculation or compilation of the index. Exercising discretion in this manner could adversely affect the value of an indexed security based on the index or the rate of return on the security.

CONSIDERATIONS RELATING TO SECURITIES DENOMINATED OR PAYABLE IN OR LINKED TO A NON-U.S. DOLLAR CURRENCY

If you intend to invest in a non-U.S. dollar security — *e.g.*, a security whose principal and/or interest is payable in a currency other than U.S. dollars or that may be settled by delivery of or reference to a non-U.S. dollar currency or property denominated in or otherwise linked to a non-U.S. dollar currency — you should consult your own financial and legal advisors as to the currency risks entailed by your investment. Securities of this kind may not be an appropriate investment for investors who are unsophisticated with respect to non-U.S. dollar currency transactions.

The information in this prospectus is directed primarily to investors who are U.S. residents. Investors who are not U.S. residents should consult their own financial and legal advisors about currency-related risks particular to their investment.

An Investment in a Non-U.S. Dollar Security Involves Currency-Related Risks

An investment in a non-U.S. dollar security entails significant risks that are not associated with a similar investment in a security that is payable solely in U.S. dollars and where settlement value is not otherwise based on a non-U.S. dollar currency. These risks include the possibility of significant changes in rates of exchange between the U.S. dollar and the various non-U.S. dollar currencies or composite currencies and the possibility of the imposition or modification of foreign exchange controls or other conditions by either the United States or non-U.S. governments. These risks generally depend on factors over which we have no control, such as economic and political events and the supply of and demand for the relevant currencies in the global markets.

Changes in Currency Exchange Rates Can Be Volatile and Unpredictable

Rates of exchange between the U.S. dollar and many other currencies have been highly volatile, and this volatility may continue and perhaps spread to other currencies in the future. Fluctuations in currency exchange rates could adversely affect an investment in a security denominated in, or whose value is otherwise linked to, a specified currency other than U.S. dollars. Depreciation of the specified currency against the U.S. dollar could result in a decrease in the U.S. dollar-equivalent value of payments on the security, including the principal payable at maturity or settlement value payable upon exercise. That in turn could cause the market value of the security to fall. Depreciation of the specified currency against the U.S. dollar could result in a loss to the investor on a U.S. dollar basis.

Government Policy Can Adversely Affect Currency Exchange Rates and an Investment in a Non-U.S. Dollar Security

Currency exchange rates can either float or be fixed by sovereign governments. From time to time, governments use a variety of techniques, such as intervention by a country's central bank or imposition of regulatory controls or taxes, to affect the exchange rate of their currencies. Governments may also issue a new currency to replace an existing currency or alter the exchange rate or exchange characteristics by devaluation or revaluation of a currency. Thus, a special risk in purchasing non-U.S. dollar securities is that their yields or payouts could be significantly and unpredictably affected by governmental actions. Even in the absence of governmental action directly affecting currency exchange rates, political or economic developments in the country issuing the specified currency for a non-U.S. dollar security or elsewhere could lead to significant and sudden changes in the exchange rate between the U.S. dollar and the specified currency. These changes could affect the value of the security as participants in the global currency markets move to buy or sell the specified currency or U.S. dollars in reaction to these developments.

Governments have imposed from time to time and may in the future impose exchange controls or other conditions, including taxes, with respect to the exchange or transfer of a specified currency that could affect exchange rates as well as the availability of a specified currency for a security at its maturity or on any other payment date. In addition, the ability of a holder to move currency freely out

of the country in which payment in the currency is received or to convert the currency at a freely determined market rate could be limited by governmental actions.

Non-U.S. Dollar Securities May Permit Us to Make Payments in U.S. Dollars or Delay Payment If We Are Unable to Obtain the Specified Currency

Securities payable in a currency other than U.S. dollars may provide that, if the other currency is subject to convertibility, transferability, market disruption or other conditions affecting its availability at or about the time when a payment on the securities comes due because of circumstances beyond our control, we will be entitled to make the payment in U.S. dollars or delay making the payment. These circumstances could include the imposition of exchange controls or our inability to obtain the other currency because of a disruption in the currency markets. If we made payment in U.S. dollars, the exchange rate we would use would be determined in the manner described above under "Description of Debt Securities We May Offer — Payment Mechanics for Debt Securities — How We Will Make Payments Due in Other Currencies — When the Specified Currency Is Not Available". A determination of this kind may be based on limited information and would involve significant discretion on the part of our foreign exchange agent. As a result, the value of the payment in U.S. dollars an investor would receive on the payment date may be less than the value of the payment the investor would have received in the other currency if it had been available, or may be zero. In addition, a government may impose extraordinary taxes on transfers of a currency. If that happens we will be entitled to deduct these taxes from any payment on securities payable in that currency.

We Will Not Adjust Non-U.S. Dollar Securities to Compensate for Changes in Currency Exchange Rates

Except as described above, we will not make any adjustment or change in the terms of a non-U.S. dollar security in the event of any change in exchange rates for the relevant currency, whether in the event of any devaluation, revaluation or imposition of exchange or other regulatory controls or taxes or in the event of other developments affecting that currency, the U.S. dollar or any other currency. Consequently, investors in non-U.S. dollar securities will bear the risk that their investment may be adversely affected by these types of events.

In a Lawsuit for Payment on a Non-U.S. Dollar Security, an Investor May Bear Currency Exchange Risk

Our debt securities, warrants, purchase contracts and units will be governed by New York law. Under Section 27 of the New York Judiciary Law, a state court in the State of New York rendering a judgment on a security denominated in a currency other than U.S. dollars would be required to render the judgment in the specified currency; however, the judgment would be converted into U.S. dollars at the exchange rate prevailing on the date of entry of the judgment. Consequently, in a lawsuit for payment on a security denominated in a currency other than U.S. dollars, investors would bear currency exchange risk until judgment is entered, which could be a long time.

In courts outside of New York, investors may not be able to obtain judgment in a specified currency other than U.S. dollars. For example, a judgment for money in an action based on a non-U.S. dollar security in many other U.S. federal or state courts ordinarily would be enforced in the United States only in U.S. dollars. The date used to determine the rate of conversion of the currency in which any particular security is denominated into U.S. dollars will depend upon various factors, including which court renders the judgment.

Information About Exchange Rates May Not Be Indicative of Future Performance

If we issue a non-U.S. dollar security, we may include in the applicable prospectus supplement a currency supplement that provides information about historical exchange rates for the relevant non-U.S. dollar currency or currencies. Any information about exchange rates that we may provide will

be furnished as a matter of information only, and you should not regard the information as indicative of the range of, or trends in, fluctuations in currency exchange rates that may occur in the future. That rate will likely differ from the exchange rate used under the terms that apply to a particular security.

Determinations Made by the Exchange Rate Agent

All determinations made by the Exchange Rate Agent will be made in its sole discretion (except to the extent expressly provided in this prospectus or in the applicable prospectus supplement that any determination is subject to approval by Goldman Sachs). In the absence of manifest error, its determinations will be conclusive for all purposes and will bind all holders and us. The Exchange Rate Agent will not have any liability for its determinations.

CONSIDERATIONS RELATING TO CAPITAL SECURITIES

An investment in the capital securities involves a number of risks, some of which relate to the terms of the capital securities or the corresponding subordinated debt securities. You should carefully review the following information about these risks together with other information contained in this prospectus and in documents incorporated by reference in this prospectus before deciding whether an investment in capital securities is suitable for you.

You Are Making an Investment Decision With Regard to the Subordinated Debt Securities As Well As the Capital Securities

Each Issuer Trust will rely on the payments it receives on the corresponding subordinated debt securities to fund all payments on its capital securities. In addition, each Issuer Trust may distribute the corresponding subordinated debt securities in exchange for its capital securities upon its dissolution and liquidation. Accordingly, you should carefully review the information in this prospectus regarding both of these securities.

Payments on the Capital Securities Are Dependent on Our Payments on the Subordinated Debt Securities

The ability of the Issuer Trusts timely to pay distributions on the capital securities and to pay the liquidation amount is dependent upon our making the related payments on the subordinated debt securities when due.

If we default on our obligation to pay principal of or any premium or interest on the corresponding subordinated debt securities, the Issuer Trusts will not have sufficient funds to pay distributions or the liquidation amount on the related capital securities. As a result, you will not be able to rely upon the guarantee for payment of these amounts. You or the property trustee of the Issuer Trust may, however, sue us to enforce the rights of such trust under the corresponding subordinated debt securities. For more information, please refer to “Description of Capital Securities and Related Instruments — Corresponding Subordinated Debt Securities — Enforcement of Certain Rights by Holders of Capital Securities” and “Description of Capital Securities and Related Instruments — Relationship Among the Capital Securities and the Related Instruments — Enforcement Rights of Holders of Capital Securities” above.

Our Obligations Will Be Deeply Subordinated, and We Will Pay Our Other Debt Obligations Before We Pay You

Our obligations under the guarantee and under the corresponding subordinated debt securities will be unsecured and rank subordinate and junior in right of payment to all of our senior indebtedness, which includes nearly all of our existing and future indebtedness (including any subordinated debt securities not issued to the Issuer Trusts and other subordinated debt).

Neither the subordinated debt indenture governing the corresponding subordinated debt securities nor the trust agreement and the guarantee relating to the capital securities will place any limitation on the nature or amount of additional indebtedness that we, or our subsidiaries, may incur in the future.

You Will Not Receive Timely Distributions If We Elect to Defer Payments

Unless otherwise provided in the applicable prospectus supplement, we may defer the payment of interest on the corresponding subordinated debt securities at any time up to a number of consecutive interest periods that is specified in the applicable prospectus supplement, provided that (1) no such extension period may extend beyond the stated maturity date and (2) we are not in default under the subordinated debt indenture with respect to the corresponding subordinated debt securities (unless our default has not ripened into a formal “event of default”). If there is a deferral, the Issuer Trust also will defer distributions on the related capital securities. Before any extension period ends, we may elect to extend the period further.

At the end of any extension period and upon the payment of all interest then accrued and unpaid, we may elect to begin a new extension period. There is no limitation on the number of extension periods. Deferrals of payments during an extension period will not result in a default or event of default. For further information on our option to defer payments, see "Description of Capital Securities and Related Instruments — Corresponding Subordinated Debt Securities — Option to Defer Interest Payments" above.

If We Elect to Defer Interest Payments, You Will Have to Include Interest in Your Taxable Income Before You Receive the Money

During an extension period, you would be required to accrue interest income for U.S. federal income tax purposes on your proportionate share of the corresponding subordinated debt securities held by an Issuer Trust, even if you are a cash basis taxpayer. As a result, you would need to include this income in your gross income for U.S. federal income tax purposes in advance of the receipt of cash. You also would not receive the cash related to any accrued and unpaid interest income from the trust if you dispose of the capital securities prior to the record date for the payment of distributions. For further information, see "United States Taxation — Taxation of Capital Securities — Interest Income and Original Issue Discount" and "United States Taxation — Taxation of Capital Securities — Sale or Redemption of Capital Securities" below.

The Market Price of the Capital Securities May Not Reflect Unpaid Interest, and You May Suffer a Loss If You Sell Them While Interest Remains Unpaid

Because of our right to defer interest payments on the corresponding subordinated debt securities, the market price of the related capital securities may be more volatile than the market prices of similar securities that do not have this feature. If we exercise our right to defer, the market price of the capital securities may decline. Accordingly, the capital securities that you purchase, whether in an offering made pursuant to a prospectus supplement or in the secondary market, or the subordinated debt securities that you may receive on liquidation of the trust, may trade at a discount to the price that you paid.

If you dispose of your capital securities before the record date for the payment of a distribution, then you will not receive that distribution. However, you will be required to include accrued but unpaid interest on the corresponding subordinated debt securities through the date of the sale as ordinary income for U.S. federal income tax purposes and to add the amount of the accrued but unpaid interest to your tax basis in the capital securities. Your increased tax basis in the capital securities will increase the amount of any capital loss that you may have otherwise realized on the sale. In general, an individual taxpayer may offset only $3,000 of capital losses against ordinary income during any year. For further information on tax consequences, see "United States Taxation — Taxation of Capital Securities — Sale or Redemption of Capital Securities" below.

We May Redeem the Corresponding Subordinated Debt Securities Upon the Occurrence of Specified Tax or Regulatory Events

We may redeem the corresponding subordinated debt securities in whole at any time within 90 days following the occurrence of specified tax or regulatory events, including:

- any change in tax laws or regulations (or any official interpretation) that poses a substantial risk that the related capital securities might lose their special tax treatment; and
- any change in laws or regulations (or any official interpretation) that poses a substantial risk that the relevant Issuer Trust is or will be considered an "investment company" that is required to be registered under the Investment Company Act.

If we redeem the corresponding subordinated debt securities, the Issuer Trust will be required to redeem the related capital securities. Unless your prospectus supplement says otherwise, you may

not receive any premium upon redemption, and you may not be able to invest the redemption proceeds at a rate of return that equals or is higher than the rate on your capital securities.

For further information on redemption, see "Description of Capital Securities and Related Instruments — Redemption or Exchange" above.

Each Issuer Trust May Distribute the Subordinated Debt Securities In Exchange For the Capital Securities, Which Could Affect the Market Price and Could Be a Taxable Event

We may dissolve any Issuer Trust at any time. After satisfying its liabilities to its creditors, the Issuer Trust may distribute the corresponding subordinated debt securities to the holders of the related capital securities. For further information, see "Description of Capital Securities and Related Instruments — Liquidation Distribution Upon Dissolution" above.

We cannot predict the market prices for capital securities or for subordinated debt securities that may be distributed in exchange for capital securities. Accordingly, the capital securities, or the subordinated debt securities that you may receive on liquidation of an Issuer Trust, may trade at a discount to the price that you paid to purchase the capital securities.

Under current U.S. federal income tax law and assuming, as we expect, that the amended and restated trust agreement for the relevant Issuer Trust will contain substantially identical terms as the form of amended and restated trust agreement attached as an exhibit to our registration statement filed with the SEC, and the relevant Issuer Trust will not be classified as an association taxable as a corporation, you will not be taxed if we dissolve the trust and the trust distributes subordinated debt securities to you. However, if an Issuer Trust were to become taxed on the income received or accrued on the corresponding subordinated debt securities due to a tax event, both you and the Issuer Trust might be taxed on a distribution of the corresponding subordinated debt securities by the trust. For further information, see "United States Taxation — Taxation of Capital Securities — Distribution of Subordinated Debt Securities to Holders of Capital Securities Upon Liquidation of the Issuer Trusts" below.

Investors Will Not Control the Administration of the Issuer Trusts and Will Have Limited Voting Rights

We will hold all the common securities of each Issuer Trust. These securities give us the right to control nearly all aspects of the administration, operation or management of the Issuer Trust, including selection and removal of the administrative trustees. The capital securities, on the other hand, will generally have no voting rights. You will be able to vote only on matters relating to the modification of the terms of your capital securities or the corresponding subordinated debt securities, the acceleration of payments on those securities and waivers of related past defaults as described in this prospectus. For further information, see "Description of Capital Securities and Related Instruments — Voting Rights; Amendment of Each Trust Agreement" below.

Listing of the Capital Securities, If Any, Does Not Guarantee Their Liquidity or Full Value

We may apply to list a series of capital securities on the NYSE or another exchange, but are not required to do so. If listed, trading in a series of capital securities on the NYSE is expected to commence within 30 days after the initial delivery of the series. Although we expect the underwriters to make a market in the capital securities prior to commencement of trading on the NYSE, they are not obligated to do so. They may also discontinue these market-making activities at any time without notice. We cannot assure the liquidity of the trading market for the capital securities.

The capital securities may trade at prices that do not fully reflect the value of accrued and unpaid interest with respect to the corresponding subordinated debt securities. See "United States Taxation — Taxation of Capital Securities — Interest Income and Original Issue Discount" and "— Sale or Redemption of Capital Securities" below for a discussion of the United States federal income tax consequences that may result from a taxable disposition of the capital securities.

UNITED STATES TAXATION

This section describes the material United States federal income tax consequences of owning certain of the debt securities, preferred stock, depositary shares we are offering and the capital securities that the Issuer Trusts are offering. The material United States federal income tax consequences of owning the debt securities described below under "— Taxation of Debt Securities — United States Holders — Indexed and Other Debt Securities", of owning preferred stock that may be convertible into or exercisable or exchangeable for securities or other property, of owning capital securities that contain, or that represent any subordinated debt security that contains, any material term not described in this prospectus or of owning warrants, purchase contracts and units will be described in the applicable prospectus supplement. This section is the opinion of Sullivan & Cromwell LLP, United States tax counsel to The Goldman Sachs Group, Inc. It applies to you only if you hold your securities as capital assets for tax purposes. This section does not apply to you if you are a member of a class of holders subject to special rules, such as:

- a dealer in securities or currencies;
- a trader in securities that elects to use a mark-to-market method of accounting for your securities holdings;
- a bank;
- a life insurance company;
- a thrift institution;
- a regulated investment company;
- a tax-exempt organization;
- a person that owns debt securities that are a hedge or that are hedged against interest rate or currency risks;
- a person that owns debt securities as part of a straddle or conversion transaction for tax purposes; or
- a United States holder (as defined below) whose functional currency for tax purposes is not the U.S. dollar.

This section is based on the U.S. Internal Revenue Code of 1986, as amended, its legislative history, existing and proposed regulations under the Internal Revenue Code, published rulings and court decisions, all as currently in effect. These laws are subject to change, possibly on a retroactive basis.

If a partnership holds the debt securities, the United States federal income tax treatment of a partner will generally depend on the status of the partner and the tax treatment of the partnership. A partner in a partnership holding the debt securities should consult its tax advisor with regard to the United States federal income tax treatment of an investment in the debt securities.

Please consult your own tax advisor concerning the consequences of owning these securities in your particular circumstances under the Internal Revenue Code and the laws of any other taxing jurisdiction.

Taxation of Debt Securities

This subsection describes the material United States federal income tax consequences of owning, selling and disposing of the debt securities we are offering, other than the debt securities described below under "— United States Holders — Indexed and Other Debt Securities", which will be described in the applicable prospectus supplement. It deals only with debt securities that are due to mature

30 years or less from the date on which they are issued. The United States federal income tax consequences of owning debt securities that are due to mature more than 30 years from their date of issue will be discussed in the applicable prospectus supplement.

United States Holders

This subsection describes the tax consequences to a United States holder. You are a United States holder if you are a beneficial owner of a debt security and you are:

- a citizen or resident of the United States;
- a domestic corporation;
- an estate whose income is subject to United States federal income tax regardless of its source; or
- a trust if a United States court can exercise primary supervision over the trust's administration and one or more United States persons are authorized to control all substantial decisions of the trust.

If you are not a United States holder, this subsection does not apply to you and you should refer to "— United States Alien Holders" below.

Payments of Interest. Except as described below in the case of interest on an original issue discount debt security that is not qualified stated interest, each as defined below under "— United States Holders — Original Issue Discount — General", you will be taxed on any interest on your debt security, whether payable in U.S. dollars or a non-U.S. dollar currency, including a composite currency or basket of currencies other than U.S. dollars, as ordinary income at the time you receive the interest or when it accrues, depending on your method of accounting for tax purposes.

Cash Basis Taxpayers

If you are a taxpayer that uses the cash receipts and disbursements method of accounting for tax purposes and you receive an interest payment that is denominated in, or determined by reference to, a non-U.S. dollar currency, you must recognize income equal to the U.S. dollar value of the interest payment, based on the exchange rate in effect on the date of receipt, regardless of whether you actually convert the payment into U.S. dollars.

Accrual Basis Taxpayers

If you are a taxpayer that uses an accrual method of accounting for tax purposes, you may determine the amount of income that you recognize with respect to an interest payment denominated in, or determined by reference to, a non-U.S. dollar currency by using one of two methods. Under the first method, you will determine the amount of income accrued based on the average exchange rate in effect during the interest accrual period or, with respect to an accrual period that spans two taxable years, that part of the period within the taxable year.

If you elect the second method, you would determine the amount of income accrued on the basis of the exchange rate in effect on the last day of the accrual period, or, in the case of an accrual period that spans two taxable years, the exchange rate in effect on the last day of the part of the period within the taxable year. Additionally, under this second method, if you receive a payment of interest within five business days of the last day of your accrual period or taxable year, you may instead translate the interest accrued into U.S. dollars at the exchange rate in effect on the day that you actually receive the interest payment. If you elect the second method, it will apply to all debt instruments that you hold at the beginning of the first taxable year to which the election applies and to all debt instruments that you subsequently acquire. You may not revoke this election without the consent of the United States Internal Revenue Service.

When you actually receive an interest payment, including a payment attributable to accrued but unpaid interest upon the sale or retirement of your debt security, denominated in, or determined by reference to, a non-U.S. dollar currency for which you accrued an amount of income, you will recognize ordinary income or loss measured by the difference, if any, between the exchange rate that you used to accrue interest income and the exchange rate in effect on the date of receipt, regardless of whether you actually convert the payment into U.S. dollars.

Original Issue Discount. ***General*** — If you own a debt security, other than a short-term debt security with a term of one year or less, it will be treated as an original issue discount debt security if the amount by which the debt security's stated redemption price at maturity exceeds its issue price is more than a de minimis amount. Generally, a debt security's issue price will be the first price at which a substantial amount of debt securities included in the issue of which the debt security is a part is sold to persons other than bond houses, brokers, or similar persons or organizations acting in the capacity of underwriters, placement agents, or wholesalers. A debt security's stated redemption price at maturity is the total of all payments provided by the debt security that are not payments of qualified stated interest. Generally, an interest payment on a debt security is qualified stated interest if it is one of a series of stated interest payments on a debt security that are unconditionally payable at least annually at a single fixed rate, with certain exceptions for lower rates paid during some periods, applied to the outstanding principal amount of the debt security. There are special rules for variable rate debt securities that are discussed below under "— Variable Rate Debt Securities".

In general, your debt security is not an original issue discount debt security if the amount by which its stated redemption price at maturity exceeds its issue price is less than the de minimis amount of 0.25 percent of its stated redemption price at maturity multiplied by the number of complete years to its maturity. Your debt security will have de minimis original issue discount if the amount of the excess is less than the de minimis amount. If your debt security has de minimis original issue discount, you must include the de minimis amount in income as stated principal payments are made on the debt security, unless you make the election described below under "— Election to Treat All Interest as Original Issue Discount". You can determine the includible amount with respect to each such payment by multiplying the total amount of your debt security's de minimis original issue discount by a fraction equal to:

- the amount of the principal payment made

divided by:

- the stated principal amount of the debt security.

Generally, if your original issue discount debt security matures more than one year from its date of issue, you must include original issue discount in income before you receive cash attributable to that income. The amount of original issue discount that you must include in income is calculated using a constant-yield method, and generally you will include increasingly greater amounts of original issue discount in income over the life of your debt security. More specifically, you can calculate the amount of original issue discount that you must include in income by adding the daily portions of original issue discount with respect to your original issue discount debt security for each day during the taxable year or portion of the taxable year that you hold your original issue discount debt security. You can determine the daily portion by allocating to each day in any accrual period a pro rata portion of the original issue discount allocable to that accrual period. You may select an accrual period of any length with respect to your original issue discount debt security and you may vary the length of each accrual period over the term of your original issue discount debt security. However, no accrual period may be longer than one year and each scheduled payment of interest or principal on the original issue discount debt security must occur on either the first or final day of an accrual period.

You can determine the amount of original issue discount allocable to an accrual period by:

- multiplying your original issue discount debt security's adjusted issue price at the beginning of the accrual period by your debt security's yield to maturity; and then

- subtracting from this figure the sum of the payments of qualified stated interest on your debt security allocable to the accrual period.

You must determine the original issue discount debt security's yield to maturity on the basis of compounding at the close of each accrual period and adjusting for the length of each accrual period. Further, you determine your original issue discount debt security's adjusted issue price at the beginning of any accrual period by:

- adding your original issue discount debt security's issue price and any accrued original issue discount for each prior accrual period; and then
- subtracting any payments previously made on your original issue discount debt security that were not qualified stated interest payments.

If an interval between payments of qualified stated interest on your original issue discount debt security contains more than one accrual period, then, when you determine the amount of original issue discount allocable to an accrual period, you must allocate the amount of qualified stated interest payable at the end of the interval, including any qualified stated interest that is payable on the first day of the accrual period immediately following the interval, pro rata to each accrual period in the interval based on their relative lengths. In addition, you must increase the adjusted issue price at the beginning of each accrual period in the interval by the amount of any qualified stated interest that has accrued prior to the first day of the accrual period but that is not payable until the end of the interval. You may compute the amount of original issue discount allocable to an initial short accrual period by using any reasonable method if all other accrual periods, other than a final short accrual period, are of equal length.

The amount of original issue discount allocable to the final accrual period is equal to the difference between:

- the amount payable at the maturity of your debt security, other than any payment of qualified stated interest; and
- your debt security's adjusted issue price as of the beginning of the final accrual period.

Acquisition Premium

If you purchase your debt security for an amount that is less than or equal to the sum of all amounts, other than qualified stated interest, payable on your debt security after the purchase date but is greater than the amount of your debt security's adjusted issue price, as determined above under "— General", the excess is acquisition premium. If you do not make the election described below under "— Election to Treat All Interest as Original Issue Discount", then you must reduce the daily portions of original issue discount by a fraction equal to:

- the excess of your adjusted basis in the debt security immediately after purchase over the adjusted issue price of the debt security

divided by:

- the excess of the sum of all amounts payable, other than qualified stated interest, on the debt security after the purchase date over the debt security's adjusted issue price.

Pre-Issuance Accrued Interest

An election may be made to decrease the issue price of your debt security by the amount of pre-issuance accrued interest if:

- a portion of the initial purchase price of your debt security is attributable to pre-issuance accrued interest;

- the first stated interest payment on your debt security is to be made within one year of your debt security's issue date; and
- the payment will equal or exceed the amount of pre-issuance accrued interest.

If this election is made, a portion of the first stated interest payment will be treated as a return of the excluded pre-issuance accrued interest and not as an amount payable on your debt security.

Debt Securities Subject to Contingencies Including Optional Redemption

Your debt security is subject to a contingency if it provides for an alternative payment schedule or schedules applicable upon the occurrence of a contingency or contingencies, other than a remote or incidental contingency, whether such contingency relates to payments of interest or of principal. In such a case, you must determine the yield and maturity of your debt security by assuming that the payments will be made according to the payment schedule most likely to occur if:

- the timing and amounts of the payments that comprise each payment schedule are known as of the issue date; and
- one of such schedules is significantly more likely than not to occur.

If there is no single payment schedule that is significantly more likely than not to occur, other than because of a mandatory sinking fund, you must include income on your debt security in accordance with the general rules that govern contingent payment obligations. These rules will be discussed in the applicable prospectus supplement.

Notwithstanding the general rules for determining yield and maturity, if your debt security is subject to contingencies, and either you or we have an unconditional option or options that, if exercised, would require payments to be made on the debt security under an alternative payment schedule or schedules, then:

- in the case of an option or options that we may exercise, we will be deemed to exercise or not exercise an option or combination of options in the manner that minimizes the yield on your debt security; and
- in the case of an option or options that you may exercise, you will be deemed to exercise or not exercise an option or combination of options in the manner that maximizes the yield on your debt security.

If both you and we hold options described in the preceding sentence, those rules will apply to each option in the order in which they may be exercised. You may determine the yield on your debt security for the purposes of those calculations by using any date on which your debt security may be redeemed or repurchased as the maturity date and the amount payable on the date that you chose in accordance with the terms of your debt security as the principal amount payable at maturity.

If a contingency, including the exercise of an option, actually occurs or does not occur contrary to an assumption made according to the above rules then, except to the extent that a portion of your debt security is repaid as a result of this change in circumstances and solely to determine the amount and accrual of original issue discount, you must redetermine the yield and maturity of your debt security by treating your debt security as having been retired and reissued on the date of the change in circumstances for an amount equal to your debt security's adjusted issue price on that date.

Election to Treat All Interest as Original Issue Discount

You may elect to include in gross income all interest that accrues on your debt security using the constant-yield method described above under "— General", with the modifications described below. For purposes of this election, interest will include stated interest, original issue discount, de minimis original issue discount, market discount, de minimis market discount and unstated interest, as

adjusted by any amortizable bond premium, described below under "— Debt Securities Purchased at a Premium", or acquisition premium.

If you make this election for your debt security, then, when you apply the constant-yield method:

- the issue price of your debt security will equal your cost;
- the issue date of your debt security will be the date you acquired it; and
- no payments on your debt security will be treated as payments of qualified stated interest.

Generally, this election will apply only to the debt security for which you make it; however, if the debt security has amortizable bond premium, you will be deemed to have made an election to apply amortizable bond premium against interest for all debt instruments with amortizable bond premium, other than debt instruments the interest on which is excludible from gross income, that you hold as of the beginning of the taxable year to which the election applies or any taxable year thereafter. Additionally, if you make this election for a market discount debt security, you will be treated as having made the election discussed below under "— Market Discount" to include market discount in income currently over the life of all debt instruments that you currently own or later acquire. You may not revoke any election to apply the constant-yield method to all interest on a debt security or the deemed elections with respect to amortizable bond premium or market discount debt securities without the consent of the United States Internal Revenue Service.

Variable Rate Debt Securities

Your debt security will be a variable rate debt security if:

- your debt security's issue price does not exceed the total noncontingent principal payments by more than the lesser of:
  1. .015 *multiplied* by the *product* of the total noncontingent principal payments and the number of complete years to maturity from the issue date; or
  2. 15 percent of the total noncontingent principal payments; and
- your debt security provides for stated interest, compounded or paid at least annually, only at:
  1. one or more qualified floating rates;
  2. a single fixed rate and one or more qualified floating rates;
  3. a single objective rate; or
  4. a single fixed rate and a single objective rate that is a qualified inverse floating rate.

Your debt security will have a variable rate that is a qualified floating rate if:

- variations in the value of the rate can reasonably be expected to measure contemporaneous variations in the cost of newly borrowed funds in the currency in which your debt security is denominated; or
- the rate is equal to such a rate multiplied by either:
  1. a fixed multiple that is greater than 0.65 but not more than 1.35; or
  2. a fixed multiple greater than 0.65 but not more than 1.35, increased or decreased by a fixed rate; and
- the value of the rate on any date during the term of your debt security is set no earlier than three months prior to the first day on which that value is in effect and no later than one year following that first day.

If your debt security provides for two or more qualified floating rates that are within 0.25 percentage points of each other on the issue date or can reasonably be expected to have approximately the same values throughout the term of the debt security, the qualified floating rates together constitute a single qualified floating rate.

Your debt security will not have a qualified floating rate, however, if the rate is subject to certain restrictions (including caps, floors, governors, or other similar restrictions) unless such restrictions are fixed throughout the term of the debt security or are not reasonably expected to significantly affect the yield on the debt security.

Your debt security will have a variable rate that is a single objective rate if:

- the rate is not a qualified floating rate;
- the rate is determined using a single, fixed formula that is based on objective financial or economic information that is not within the control of or unique to the circumstances of the issuer or a related party; and
- the value of the rate on any date during the term of your debt security is set no earlier than three months prior to the first day on which that value is in effect and no later than one year following that first day.

Your debt security will not have a variable rate that is an objective rate, however, if it is reasonably expected that the average value of the rate during the first half of your debt security's term will be either significantly less than or significantly greater than the average value of the rate during the final half of your debt security's term.

An objective rate as described above is a qualified inverse floating rate if:

- the rate is equal to a fixed rate minus a qualified floating rate and
- the variations in the rate can reasonably be expected to inversely reflect contemporaneous variations in the cost of newly borrowed funds.

Your debt security will also have a single qualified floating rate or an objective rate if interest on your debt security is stated at a fixed rate for an initial period of one year or less followed by either a qualified floating rate or an objective rate for a subsequent period, and either:

- the fixed rate and the qualified floating rate or objective rate have values on the issue date of the debt security that do not differ by more than 0.25 percentage points; or
- the value of the qualified floating rate or objective rate is intended to approximate the fixed rate.

In general, if your variable rate debt security provides for stated interest at a single qualified floating rate or objective rate, or one of those rates after a single fixed rate for an initial period, all stated interest on your debt security is qualified stated interest. In this case, the amount of original issue discount, if any, is determined by using, in the case of a qualified floating rate or qualified inverse floating rate, the value as of the issue date of the qualified floating rate or qualified inverse floating rate, or, for any other objective rate, a fixed rate that reflects the yield reasonably expected for your debt security.

If your variable rate debt security does not provide for stated interest at a single qualified floating rate or a single objective rate, and also does not provide for interest payable at a fixed rate other than a single fixed rate for an initial period, you generally must determine the interest and original issue discount accruals on your debt security by:

- determining a fixed rate substitute for each variable rate provided under your variable rate debt security;
- constructing the equivalent fixed rate debt instrument, using the fixed rate substitute described above;

- determining the amount of qualified stated interest and original issue discount with respect to the equivalent fixed rate debt instrument; and
- adjusting for actual variable rates during the applicable accrual period.

When you determine the fixed rate substitute for each variable rate provided under the variable rate debt security, you generally will use the value of each variable rate as of the issue date or, for an objective rate that is not a qualified inverse floating rate, a rate that reflects the reasonably expected yield on your debt security.

If your variable rate debt security provides for stated interest either at one or more qualified floating rates or at a qualified inverse floating rate, and also provides for stated interest at a single fixed rate other than at a single fixed rate for an initial period, you generally must determine interest and original issue discount accruals by using the method described in the previous paragraph. However, your variable rate debt security will be treated, for purposes of the first three steps of the determination, as if your debt security had provided for a qualified floating rate, or a qualified inverse floating rate, rather than the fixed rate. The qualified floating rate, or qualified inverse floating rate, that replaces the fixed rate must be such that the fair market value of your variable rate debt security as of the issue date approximates the fair market value of an otherwise identical debt instrument that provides for the qualified floating rate, or qualified inverse floating rate, rather than the fixed rate.

Short-Term Debt Securities

In general, if you are an individual or other cash basis United States holder of a short-term debt security, you are not required to accrue original issue discount, as specially defined below for the purposes of this paragraph, for United States federal income tax purposes unless you elect to do so (although it is possible that you may be required to include any stated interest in income as you receive it). If you are an accrual basis taxpayer, a taxpayer in a special class, including, but not limited to, a regulated investment company, common trust fund, or a certain type of pass-through entity, or a cash basis taxpayer who so elects, you will be required to accrue original issue discount on short-term debt securities on either a straight-line basis or under the constant-yield method, based on daily compounding. If you are not required and do not elect to include original issue discount in income currently, any gain you realize on the sale or retirement of your short-term debt security will be ordinary income to the extent of the accrued original issue discount, which will be determined on a straight-line basis unless you make an election to accrue the original issue discount under the constant-yield method, through the date of sale or retirement. However, if you are not required and do not elect to accrue original issue discount on your short-term debt securities, you will be required to defer deductions for interest on borrowings allocable to your short-term debt securities in an amount not exceeding the deferred income until the deferred income is realized.

When you determine the amount of original issue discount subject to these rules, you must include all interest payments on your short-term debt security, including stated interest, in your short-term debt security's stated redemption price at maturity.

Non-U.S. Dollar Currency Original Issue Discount Debt Securities

If your original issue discount debt security is denominated in, or determined by reference to, a non-U.S. dollar currency, you must determine original issue discount for any accrual period on your original issue discount debt security in the non-U.S. dollar currency and then translate the amount of original issue discount into U.S. dollars in the same manner as stated interest accrued by an accrual basis United States holder, as described above under "— Taxation of Debt Securities — United States Holders — Payments of Interest". You may recognize ordinary income or loss when you receive an amount attributable to original issue discount in connection with a payment of interest or the sale or retirement of your debt security.

Market Discount

You will be treated as if you purchased your debt security, other than a short-term debt security, at a market discount, and your debt security will be a market discount debt security if:

- you purchase your debt security for less than its issue price as determined above under "— Original Issue Discount — General"; and

- the difference between the debt security's stated redemption price at maturity or, in the case of a discount debt security, the debt security's revised issue price, and the price you paid for your debt security is equal to or greater than 0.25 percent of your debt security's stated redemption price at maturity or revised issue price, respectively, *multiplied* by the number of complete years to the debt security's maturity. To determine the revised issue price of your debt security for these purposes, you generally add any original issue discount that has accrued on your debt security to its issue price.

If your debt security's stated redemption price at maturity or, in the case of a discount debt security, its revised issue price, exceeds the price you paid for the debt security by less than 0.25 percent *multiplied* by the number of complete years to the debt security's maturity, the excess constitutes de minimis market discount, and the rules discussed below are not applicable to you.

You must treat any gain you recognize on the maturity or disposition of your market discount debt security as ordinary income to the extent of the accrued market discount on your debt security. Alternatively, you may elect to include market discount in income currently over the life of your debt security. If you make this election, it will apply to all debt instruments with market discount that you acquire on or after the first day of the first taxable year to which the election applies. You may not revoke this election without the consent of the United States Internal Revenue Service. If you own a market discount debt security and do not make this election, you will generally be required to defer deductions for interest on borrowings allocable to your debt security in an amount not exceeding the accrued market discount on your debt security until the maturity or disposition of your debt security.

You will accrue market discount on your market discount debt security on a straight-line basis unless you elect to accrue market discount using a constant-yield method. If you make this election, it will apply only to the debt security with respect to which it is made and you may not revoke it.

Debt Securities Purchased at a Premium. If you purchase your debt security for an amount in excess of its principal amount, you may elect to treat the excess as amortizable bond premium. If you make this election, you will reduce the amount required to be included in your income each year with respect to interest on your debt security by the amount of amortizable bond premium allocable to that year, based on your debt security's yield to maturity. If your debt security is denominated in, or determined by reference to, a non-U.S. dollar currency, you will compute your amortizable bond premium in units of the non-U.S. dollar currency and your amortizable bond premium will reduce your interest income in units of the non-U.S. dollar currency. Gain or loss recognized that is attributable to changes in foreign currency exchange rates between the time your amortized bond premium offsets interest income and the time of the acquisition of your debt security is generally taxable as ordinary income or loss. If you make an election to amortize bond premium, it will apply to all debt instruments, other than debt instruments the interest on which is excludible from gross income, that you hold at the beginning of the first taxable year to which the election applies or that you thereafter acquire, and you may not revoke it without the consent of the United States Internal Revenue Service. See also "— Taxation of Debt Securities — United States Holders — Original Issue Discount — Election to Treat All Interest as Original Issue Discount".

Purchase, Sale and Retirement of the Debt Securities. Your tax basis in your debt security will generally be the U.S. dollar cost, as defined below, of your debt security, adjusted by:

- adding any original issue discount, market discount, de minimis original issue discount and de minimis market discount previously included in income with respect to your debt security; and then
- subtracting any payments on your debt security that are not qualified stated interest payments and any amortizable bond premium applied to reduce interest on your debt security.

If you purchase your debt security with non-U.S. dollar currency, the U.S. dollar cost of your debt security will generally be the U.S. dollar value of the purchase price on the date of purchase. However, if you are a cash basis taxpayer, or an accrual basis taxpayer if you so elect, and your debt security is traded on an established securities market, as defined in the applicable U.S. Treasury regulations, the U.S. dollar cost of your debt security will be the U.S. dollar value of the purchase price on the settlement date of your purchase.

You will generally recognize gain or loss on the sale or retirement of your debt security equal to the difference between the amount you realize on the sale or retirement and your tax basis in your debt security. If your debt security is sold or retired for an amount in non-U.S. dollar currency, the amount you realize will be the U.S. dollar value of such amount on the date the note is disposed of or retired, except that in the case of a note that is traded on an established securities market, as defined in the applicable Treasury regulations, a cash basis taxpayer, or an accrual basis taxpayer that so elects, will determine the amount realized based on the U.S. dollar value of the specified currency on the settlement date of the sale.

You will recognize capital gain or loss when you sell or retire your debt security, except to the extent:

- described above under "— Taxation of Debt Securities — United States Holders — Original Issue Discount — Short-Term Debt Securities" or "— Market Discount";
- attributable to accrued but unpaid interest;
- the rules governing contingent payment obligations apply; or
- attributable to changes in exchange rates as described below.

Capital gain of a noncorporate United States holder that is recognized in taxable years beginning before January 1, 2011 is generally taxed at a maximum rate of 15% where the holder has a holding period greater than one year.

You must treat any portion of the gain or loss that you recognize on the sale or retirement of a debt security as ordinary income or loss to the extent attributable to changes in exchange rates. However, you take exchange gain or loss into account only to the extent of the total gain or loss you realize on the transaction.

Exchange of Amounts in Other Than U.S. Dollars. If you receive non-U.S. dollar currency as interest on your debt security or on the sale or retirement of your debt security, your tax basis in the non-U.S. dollar currency will equal its U.S. dollar value when the interest is received or at the time of the sale or retirement. If you purchase non-U.S. dollar currency, you generally will have a tax basis equal to the U.S. dollar value of the non-U.S. dollar currency on the date of your purchase. If you sell or dispose of a non-U.S. dollar currency, including if you use it to purchase debt securities or exchange it for U.S. dollars, any gain or loss recognized generally will be ordinary income or loss.

Indexed and Other Debt Securities. The applicable prospectus supplement will discuss the material United States federal income tax rules with respect to contingent non-U.S. dollar currency debt securities, debt securities that may be convertible into or exercisable or exchangeable for common or preferred stock or other securities of Goldman Sachs or debt or equity securities of one or

more third parties, debt securities the payments on which are determined by reference to any index and other debt securities that are subject to the rules governing contingent payment obligations which are not subject to the rules governing variable rate debt securities, any renewable and extendible debt securities and any debt securities providing for the periodic payment of principal over the life of the debt security.

United States Alien Holders

This subsection describes the tax consequences to a United States alien holder. You are a United States alien holder if you are the beneficial owner of a debt security and are, for United States federal income tax purposes:

- a nonresident alien individual;
- a foreign corporation; or
- an estate or trust that in either case is not subject to United States federal income tax on a net income basis on income or gain from a debt security.

If you are a United States holder, this subsection does not apply to you.

This discussion assumes that the debt security or coupon is not subject to the rules of Section 871(h)(4)(A) of the Internal Revenue Code, relating to interest payments that are determined by reference to the income, profits, changes in the value of property or other attributes of the debtor or a related party.

Under United States federal income and estate tax law, and subject to the discussion of backup withholding below, if you are a United States alien holder of a debt security or coupon:

- we and other U.S. payors generally will not be required to deduct United States withholding tax from payments of principal, premium, if any, and interest, including original issue discount, to you if, in the case of payments of interest:
  1. you do not actually or constructively own 10% or more of the total combined voting power of all classes of our stock entitled to vote;
  2. you are not a controlled foreign corporation that is related to us through stock ownership;
  3. you are not a bank receiving interest on an extension of credit made pursuant to a loan agreement entered into in the ordinary course of your trade or business;
  4. in the case of a debt security other than a bearer debt security, the U.S. payor does not have actual knowledge or reason to know that you are a United States person and:
     a. you have furnished to the U.S. payor an Internal Revenue Service Form W-8BEN or an acceptable substitute form upon which you certify, under penalties of perjury, that you are (or, in the case of a United States alien holder that is a partnership or an estate or trust, such forms certifying that each partner in the partnership or beneficiary of the estate or trust is) not a United States person;
     b. in the case of payments made outside the United States to you at an offshore account (generally, an account maintained by you at a bank or other financial institution at any location outside the United States), you have furnished to the U.S. payor documentation that establishes your identity and your status as the beneficial owner of the payment for United States federal income tax purposes and as a person who is not a United States person;

c. the U.S. payor has received a withholding certificate (furnished on an appropriate Internal Revenue Service Form W-8 or an acceptable substitute form) from a person claiming to be:

i. a withholding foreign partnership (generally a foreign partnership that has entered into an agreement with the Internal Revenue Service to assume primary withholding responsibility with respect to distributions and guaranteed payments it makes to its partners);

ii. a qualified intermediary (generally a non-United States financial institution or clearing organization or a non-United States branch or office of a United States financial institution or clearing organization that is a party to a withholding agreement with the Internal Revenue Service); or

iii. a U.S. branch of a non-United States bank or of a non-United States insurance company; and

the withholding foreign partnership, qualified intermediary or U.S. branch has received documentation upon which it may rely to treat the payment as made to a person who is not a United States person that is, for United States federal income tax purposes, the beneficial owner of the payments on the debt securities in accordance with U.S. Treasury regulations (or, in the case of a qualified intermediary, in accordance with its agreement with the Internal Revenue Service);

d. the U.S. payor receives a statement from a securities clearing organization, bank or other financial institution that holds customers' securities in the ordinary course of its trade or business:

i. certifying to the U.S. payor under penalties of perjury that an Internal Revenue Service Form W-8BEN or an acceptable substitute form has been received from you by it or by a similar financial institution between it and you; and

ii. to which is attached a copy of the Internal Revenue Service Form W-8BEN or acceptable substitute form; or

e. the U.S. payor otherwise possesses documentation upon which it may rely to treat the payment as made to a person who is not a United States person that is, for United States federal income tax purposes, the beneficial owner of the payments on the debt securities in accordance with U.S. Treasury regulations; and

5. in the case of a bearer debt security, the debt security is offered, sold and delivered in compliance with the restrictions described above under "Considerations Relating to Securities Issued in Bearer Form" and payments on the debt security are made in accordance with the procedures described above under that section; and

- no deduction for any United States federal withholding tax will be made from any gain that you realize on the sale or exchange of your debt security or coupon.

Further, a debt security or coupon held by an individual who at death is not a citizen or resident of the United States will not be includible in the individual's gross estate for United States federal estate tax purposes if:

- the decedent did not actually or constructively own 10% or more of the total combined voting power of all classes of our stock entitled to vote at the time of death; and
- the income on the debt security would not have been effectively connected with a U.S. trade or business of the decedent at the same time.

Treasury Regulations Requiring Disclosure of Reportable Transactions

Recently promulgated Treasury regulations require United States taxpayers to report certain transactions that give rise to a loss in excess of certain thresholds (a "Reportable Transaction"). Under these regulations, if the debt securities are denominated in a foreign currency, a United States holder (or a United States alien holder that holds the debt securities in connection with a U.S. trade or business) that recognizes a loss with respect to the debt securities that is characterized as an ordinary loss due to changes in currency exchange rates (under any of the rules discussed above) would be required to report the loss on Internal Revenue Service Form 8886 (Reportable Transaction Statement) if the loss exceeds the thresholds set forth in the regulations. For individuals and trusts, this loss threshold is $50,000 in any single taxable year. For other types of taxpayers and other types of losses, the thresholds are higher. You should consult with your tax advisor regarding any tax filing and reporting obligations that may apply in connection with acquiring, owning and disposing of debt securities.

Backup Withholding and Information Reporting

United States Holders. In general, if you are a noncorporate United States holder, we and other payors are required to report to the United States Internal Revenue Service all payments of principal, any premium and interest on your debt security, and the accrual of original issue discount on an original issue discount debt security. In addition, we and other payors are required to report to the United States Internal Revenue Service any payment of proceeds of the sale of your debt security before maturity within the United States. Additionally, backup withholding will apply to any payments, including payments of original issue discount, if you fail to provide an accurate taxpayer identification number, or you are notified by the United States Internal Revenue Service that you have failed to report all interest and dividends required to be shown on your federal income tax returns.

United States Alien Holders. In general, if you are a United States alien holder, payments of principal, premium or interest, including original issue discount, made by us and other payors to you will not be subject to backup withholding and information reporting, provided that the certification requirements described above under "— Taxation of Debt Securities — United States Alien Holders" are satisfied or you otherwise establish an exemption. However, we and other payors are required to report payments of interest on your debt securities on Internal Revenue Service Form 1042-S even if the payments are not otherwise subject to information reporting requirements. In addition, payment of the proceeds from the sale of debt securities effected at a United States office of a broker will not be subject to backup withholding and information reporting provided that:

- the broker does not have actual knowledge or reason to know that you are a United States person and you have furnished to the broker:
  1. an appropriate Internal Revenue Service Form W-8 or an acceptable substitute form upon which you certify, under penalties of perjury, that you are (or, in the case of a United States alien holder that is a partnership or an estate or trust, such forms certifying that each partner in the partnership or beneficiary of the estate or trust is) not a United States person; or
  2. other documentation upon which it may rely to treat the payment as made to a person who is not a United States person that is, for United States federal income tax purposes, the beneficial owner of the payment on the debt securities in accordance with U.S. Treasury regulations; or
- you otherwise establish an exemption.

If you fail to establish an exemption and the broker does not possess adequate documentation of your status as a person who is not a United States person, the payments may be subject to information reporting and backup withholding. However, backup withholding will not apply with respect to payments made outside the United States to an offshore account maintained by you unless the broker has actual knowledge that you are a United States person.

In general, payment of the proceeds from the sale of debt securities effected at a foreign office of a broker will not be subject to information reporting or backup withholding. However, a sale effected at a foreign office of a broker will be subject to information reporting and backup withholding if:

- the proceeds are transferred to an account maintained by you in the United States;
- the payment of proceeds or the confirmation of the sale is mailed to you at a United States address; or
- the sale has some other specified connection with the United States as provided in U.S. Treasury regulations;

unless the broker does not have actual knowledge or reason to know that you are a United States person and the documentation requirements described above (relating to a sale of debt securities effected at a United States office of a broker) are met or you otherwise establish an exemption.

In addition, payment of the proceeds from the sale of debt securities effected at a foreign office of a broker will be subject to information reporting if the broker is:

- a United States person;
- a controlled foreign corporation for United States tax purposes;
- a foreign person 50% or more of whose gross income is effectively connected with the conduct of a United States trade or business for a specified three-year period; or
- a foreign partnership, if at any time during its tax year:
  1. one or more of its partners are "U.S. persons", as defined in U.S. Treasury regulations, who in the aggregate hold more than 50% of the income or capital interest in the partnership; or
  2. such foreign partnership is engaged in the conduct of a United States trade or business;

unless the broker does not have actual knowledge or reason to know that you are a United States person and the documentation requirements described above (relating to a sale of debt securities effected at a United States office of a broker) are met or you otherwise establish an exemption. Backup withholding will apply if the sale is subject to information reporting and the broker has actual knowledge that you are a United States person.

Taxation of Preferred Stock and Depositary Shares

This subsection describes the material United States federal income tax consequences of owning, selling and disposing of the preferred stock and depositary shares that we may offer other than preferred stock that may be convertible into or exercisable or exchangeable for securities or other property, which will be described in the applicable prospectus supplement. When we refer to preferred stock in this subsection, we mean both preferred stock and depositary shares.

United States Holders

This subsection describes the tax consequences to a United States holder. You are a United States holder if you are a beneficial owner of a share of preferred stock and you are:

- a citizen or resident of the United States;
- a domestic corporation;
- an estate whose income is subject to United States federal income tax regardless of its source; or

- a trust if a United States court can exercise primary supervision over the trust's administration and one or more United States persons are authorized to control all substantial decisions of the trust.

If you are not a United States holder, this subsection does not apply to you and you should refer to "— United States Alien Holders" below.

Distributions on Preferred Stock. You will be taxed on distributions on preferred stock as dividend income to the extent paid out of our current or accumulated earnings and profits for United States federal income tax purposes. If you are a noncorporate United States holder, dividends paid to you in taxable years beginning before January 1, 2011 that constitute qualified dividend income will be taxable to you at a maximum rate of 15%, provided that you hold your shares of preferred stock for more than 60 days during the 121-day period beginning 60 days before the ex-dividend date or, if the dividend is attributable to a period or periods aggregating over 366 days, provided that you hold your shares of preferred stock for more than 90 days during the 181-day period beginning 90 days before the ex-dividend date. If you are taxed as a corporation, except as described in the next subsection, dividends would be eligible for the 70% dividends-received deduction.

You generally will not be taxed on any portion of a distribution not paid out of our current or accumulated earnings and profits if your tax basis in the preferred stock is greater than or equal to the amount of the distribution. However, you would be required to reduce your tax basis (but not below zero) in the preferred stock by the amount of the distribution, and would recognize capital gain to the extent that the distribution exceeds your tax basis in the preferred stock. Further, if you are a corporation, you would not be entitled to a dividends-received deduction on this portion of a distribution.

Limitations on Dividends-Received Deduction

Corporate shareholders may not be entitled to take the 70% dividends-received deduction in all circumstances. Prospective corporate investors in preferred stock should consider the effect of:

- Section 246A of the Internal Revenue Code, which reduces the dividends-received deduction allowed to a corporate shareholder that has incurred indebtedness that is "directly attributable" to an investment in portfolio stock such as preferred stock;
- Section 246(c) of the Internal Revenue Code, which, among other things, disallows the dividends-received deduction in respect of any dividend on a share of stock that is held for less than the minimum holding period (generally at least 46 days during the 90 day period beginning on the date which is 45 days before the date on which such share becomes ex-dividend with respect to such dividend); and
- Section 1059 of the Internal Revenue Code, which, under certain circumstances (including situations where preferred stock is issued at a premium), reduces the basis of stock for purposes of calculating gain or loss in a subsequent disposition by the portion of any "extraordinary dividend" (as defined below) that is eligible for the dividends-received deduction.

Extraordinary Dividends

If you are a corporate shareholder, you will be required to reduce your tax basis (but not below zero) in the preferred stock by the nontaxed portion of any "extraordinary dividend" if you have not held your stock for more than two years before the earliest of the date such dividend is declared, announced, or agreed. Generally, the nontaxed portion of an extraordinary dividend is the amount excluded from income by operation of the dividends-received deduction. An extraordinary dividend on the preferred stock generally would be a dividend that:

- equals or exceeds 5% of the corporate shareholder's adjusted tax basis in the preferred stock, treating all dividends having ex-dividend dates within an 85 day period as one dividend; or

- exceeds 20% of the corporate shareholder's adjusted tax basis in the preferred stock, treating all dividends having ex-dividend dates within a 365 day period as one dividend.

In determining whether a dividend paid on the preferred stock is an extraordinary dividend, a corporate shareholder may elect to substitute the fair market value of the stock for its tax basis for purposes of applying these tests if the fair market value as of the day before the ex-dividend date is established to the satisfaction of the Secretary of the Treasury. An extraordinary dividend also includes any amount treated as a dividend in the case of a redemption that is either non-pro rata as to all stockholders or in partial liquidation of the company, regardless of the stockholder's holding period and regardless of the size of the dividend. Any part of the nontaxed portion of an extraordinary dividend that is not applied to reduce the corporate shareholder's tax basis as a result of the limitation on reducing its basis below zero would be treated as capital gain and would be recognized in the taxable year in which the extraordinary dividend is received.

If you are a corporate shareholder, please consult your tax advisor with respect to the possible application of the extraordinary dividend provisions of the federal income tax law to your ownership or disposition of preferred stock in your particular circumstances.

Redemption Premium

If we may redeem your preferred stock at a redemption price in excess of its issue price, the entire amount of the excess may constitute an unreasonable redemption premium which will be treated as a constructive dividend. You generally must take this constructive dividend into account each year in the same manner as original issue discount would be taken into account if the preferred stock were treated as an original issue discount debt security for United States federal income tax purposes. See "— Taxation of Debt Securities — United States Holders — Original Issue Discount — General" above for a discussion of the special tax rules for original issue discount. A corporate shareholder would be entitled to a dividends-received deduction for any constructive dividends unless the special rules denying a dividends-received deduction described above in "— Limitations on Dividends-Received Deduction" apply. A corporate shareholder would also be required to take these constructive dividends into account when applying the extraordinary dividend rules described above. Thus, a corporate shareholder's receipt of a constructive dividend may cause some or all stated dividends to be treated as extraordinary dividends. The applicable prospectus supplement for preferred stock that is redeemable at a price in excess of its issue price will indicate whether tax counsel believes that a shareholder must include any redemption premium in income.

Sale or Exchange of Preferred Stock Other Than by Redemption. If you sell or otherwise dispose of your preferred stock (other than by redemption), you will generally recognize capital gain or loss equal to the difference between the amount realized upon the disposition and your adjusted tax basis of the preferred stock. Capital gain of a noncorporate United States holder that is recognized in taxable years beginning before January 1, 2011 is generally taxed at a maximum rate of 15% where the holder has a holding period greater than one year.

Redemption of Preferred Stock. If we are permitted to and redeem your preferred stock, it generally would be a taxable event. You would be treated as if you had sold your preferred stock if the redemption:

- results in a complete termination of your stock interest in us;
- is substantially disproportionate with respect to you; or
- is not essentially equivalent to a dividend with respect to you.

In determining whether any of these tests has been met, shares of stock considered to be owned by you by reason of certain constructive ownership rules set forth in Section 318 of the Internal Revenue Code, as well as shares actually owned, must be taken into account.

If we redeem your preferred stock in a redemption that meets one of the tests described above, you generally would recognize taxable gain or loss equal to the sum of the amount of cash and fair market value of property (other than stock of us or a successor to us) received by you less your tax basis in the preferred stock redeemed. This gain or loss would be long-term capital gain or capital loss if you have held the preferred stock for more than one year.

If a redemption does not meet any of the tests described above, you generally would be taxed on the cash and fair market value of the property you receive as a dividend to the extent paid out of our current and accumulated earnings and profits. Any amount in excess of our current or accumulated earnings and profits would first reduce your tax basis in the preferred stock and thereafter would be treated as capital gain. If a redemption of the preferred stock is treated as a distribution that is taxable as a dividend, your basis in the redeemed preferred stock would be transferred to the remaining shares of our stock that you own, if any.

Special rules apply if we redeem preferred stock for our debt securities. We will discuss these rules in an applicable prospectus supplement if we have the option to redeem your preferred stock for our debt securities.

United States Alien Holders

This section summarizes certain United States federal income and estate tax consequences of the ownership and disposition of preferred stock by a United States alien holder. You are a United States alien holder if you are, for United States federal income tax purposes:

- a nonresident alien individual;
- a foreign corporation; or
- an estate or trust that in either case is not subject to United States federal income tax on a net income basis on income or gain from preferred stock.

Dividends. Except as described below, if you are a United States alien holder of preferred stock, dividends paid to you are subject to withholding of United States federal income tax at a 30% rate or at a lower rate if you are eligible for the benefits of an income tax treaty that provides for a lower rate. Even if you are eligible for a lower treaty rate, we and other payors will generally be required to withhold at a 30% rate (rather than the lower treaty rate) on dividend payments to you, unless you have furnished to us or another payor:

- a valid Internal Revenue Service Form W-8BEN or an acceptable substitute form upon which you certify, under penalties of perjury, your status as a person (or, in the case of a United States alien holder that is a partnership or an estate or trust, such forms certifying that each partner in the partnership or beneficiary of the estate or trust is) who is not a United States person and your entitlement to the lower treaty rate with respect to such payments; or
- in the case of payments made outside the United States to an offshore account (generally, an account maintained by you at an office or branch of a bank or other financial institution at any location outside the United States), other documentary evidence establishing your entitlement to the lower treaty rate in accordance with U.S. Treasury regulations.

If you are eligible for a reduced rate of United States withholding tax under a tax treaty, you may obtain a refund of any amounts withheld in excess of that rate by filing a refund claim with the United States Internal Revenue Service.

If dividends paid to you are “effectively connected” with your conduct of a trade or business within the United States, and, if required by a tax treaty, the dividends are attributable to a permanent

establishment that you maintain in the United States, we and other payors generally are not required to withhold tax from the dividends, provided that you have furnished to us or another payor a valid Internal Revenue Service Form W-8ECI or an acceptable substitute form upon which you represent, under penalties of perjury, that:

- you (or, in the case of a United States alien holder that is a partnership or an estate or trust, such forms certifying that each partner in the partnership or beneficiary of the estate or trust is) are not a United States person; and
- the dividends are effectively connected with your conduct of a trade or business within the United States and are includible in your gross income.

"Effectively connected" dividends are taxed at rates applicable to United States citizens, resident aliens and domestic United States corporations.

If you are a corporate United States alien holder, "effectively connected" dividends that you receive may, under certain circumstances, be subject to an additional "branch profits tax" at a 30% rate or at a lower rate if you are eligible for the benefits of an income tax treaty that provides for a lower rate.

Gain on Disposition of Preferred Stock. If you are a United States alien holder, you generally will not be subject to United States federal income tax on gain that you recognize on a disposition of preferred stock unless:

- the gain is "effectively connected" with your conduct of a trade or business in the United States, and the gain is attributable to a permanent establishment that you maintain in the United States, if that is required by an applicable income tax treaty as a condition for subjecting you to United States taxation on a net income basis;
- you are an individual, you hold the preferred stock as a capital asset, you are present in the United States for 183 or more days in the taxable year of the sale and certain other conditions exist; or
- we are or have been a United States real property holding corporation for federal income tax purposes and you held, directly or indirectly, at any time during the five-year period ending on the date of disposition, more than 5% of your class of preferred stock and you are not eligible for any treaty exemption.

If you are a corporate United States alien holder, "effectively connected" gains that you recognize may also, under certain circumstances, be subject to an additional "branch profits tax" at a 30% rate or at a lower rate if you are eligible for the benefits of an income tax treaty that provides for a lower rate.

We have not been, are not and do not anticipate becoming a United States real property holding corporation for United States federal income tax purposes.

Federal Estate Taxes. Preferred stock held by a United States alien holder at the time of death will be included in the holder's gross estate for United States federal estate tax purposes, unless an applicable estate tax treaty provides otherwise.

Backup Withholding and Information Reporting

United States Holders. In general, dividend payments, or other taxable distributions, made within the United States to you will be subject to information reporting requirements and backup withholding tax if you are a non-corporate United States person and you:

- fail to provide an accurate taxpayer identification number;
- are notified by the United States Internal Revenue Service that you have failed to report all interest or dividends required to be shown on your federal income tax returns; or

- in certain circumstances, fail to comply with applicable certification requirements.

If you sell your preferred stock outside the United States through a non-U.S. office of a non-U.S. broker, and the sales proceeds are paid to you outside the United States, then U.S. backup withholding and information reporting requirements generally will not apply to that payment. However, U.S. information reporting, but not backup withholding, will apply to a payment of sales proceeds, even if that payment is made outside the United States, if you sell your preferred stock through a non-U.S. office of a broker that is:

- a United States person;
- a controlled foreign corporation for United States tax purposes;
- a foreign person 50% or more of whose gross income is effectively connected with the conduct of a United States trade or business for a specified three-year period; or
- a foreign partnership, if at any time during its tax year:
  1. one or more of its partners are "U.S. persons", as defined in U.S. Treasury regulations, who in the aggregate hold more than 50% of the income or capital interest in the partnership; or
  2. such foreign partnership is engaged in the conduct of a United States trade or business.

You generally may obtain a refund of any amounts withheld under the U.S. backup withholding rules that exceed your income tax liability by filing a refund claim with the United States Internal Revenue Service.

United States Alien Holders. If you are a United States alien holder, you are generally exempt from backup withholding and information reporting requirements with respect to:

- dividend payments; and
- the payment of the proceeds from the sale of preferred stock effected at a United States office of a broker;

as long as the income associated with such payments is otherwise exempt from United States federal income tax, and:

- the payor or broker does not have actual knowledge or reason to know that you are a United States person and you have furnished to the payor or broker:
  1. a valid Internal Revenue Service Form W-8BEN or an acceptable substitute form upon which you certify, under penalties of perjury, that you (or, in the case of a United States alien holder that is a partnership or an estate or trust, such forms certifying that each partner in the partnership or beneficiary of the estate or trust is) are not a United States person; or
  2. other documentation upon which it may rely to treat the payments as made to a non-United States person that is, for United States federal income tax purposes, the beneficial owner of the payments in accordance with U.S. Treasury regulations; or
- you otherwise establish an exemption.

Payment of the proceeds from the sale of preferred stock effected at a foreign office of a broker generally will not be subject to information reporting or backup withholding. However, a sale of preferred stock that is effected at a foreign office of a broker will be subject to information reporting and backup withholding if:

- the proceeds are transferred to an account maintained by you in the United States;
- the payment of proceeds or the confirmation of the sale is mailed to you at a United States address; or

- the sale has some other specified connection with the United States as provided in U.S. Treasury regulations;

unless the broker does not have actual knowledge or reason to know that you are a United States person and the documentation requirements described above are met or you otherwise establish an exemption.

In addition, a sale of preferred stock will be subject to information reporting if it is effected at a foreign office of a broker that is:

- a United States person;
- a controlled foreign corporation for United States tax purposes;
- a foreign person 50% or more of whose gross income is effectively connected with the conduct of a United States trade or business for a specified three-year period; or
- a foreign partnership, if at any time during its tax year:
  1. one or more of its partners are "U.S. persons", as defined in U.S. Treasury regulations, who in the aggregate hold more than 50% of the income or capital interest in the partnership; or
  2. such foreign partnership is engaged in the conduct of a United States trade or business;

unless the broker does not have actual knowledge or reason to know that you are a United States person and the documentation requirements described above are met or you otherwise establish an exemption. Backup withholding will apply if the sale is subject to information reporting and the broker has actual knowledge that you are a United States person that is, for United States federal income tax purposes, the beneficial owner of the payments.

You generally may obtain a refund of any amounts withheld under the backup withholding rules that exceed your income tax liability by filing a refund claim with the Internal Revenue Service.

Taxation of Capital Securities

The following discussion of the material U.S. federal income tax consequences to the purchase, ownership and disposition of capital securities only addresses the tax consequences to a U.S. holder that acquires capital securities on their original issue date at their original offering price and holds the capital securities as a capital asset for tax purposes. You are a U.S. holder if you are a beneficial owner of a capital security that is:

- a citizen or resident of the United States;
- a domestic corporation;
- an estate whose income is subject to U.S. federal income tax regardless of its source; or
- a trust if a U.S. court can exercise primary supervision over the trust's administration and one or more U.S. persons have authority to control all substantial decisions of the trust.

This summary does not apply if the subordinated debt securities or capital securities:

- are issued with more than a de minimis amount of original issue discount;
- mature 1 year or less than or more than 30 years after the issue date;
- are denominated or pay principal, premium, if any, or interest in a currency other than U.S. dollars;
- pay principal, premium, if any, or interest based on an index or indices;
- allow for deferral of interest for more than 5 years' worth of consecutive interest periods;
- are issued in bearer form;

- contain any obligation or right of us or a holder to convert or exchange the subordinated debt securities into other securities or properties of Goldman Sachs;
- contain any obligation or right of Goldman Sachs to redeem, purchase or repay the subordinated debt securities (other than a redemption of the outstanding subordinated debt securities at a price equal to (1) 100% of the principal amount of the subordinated debt securities being redeemed, plus (2) accrued but unpaid interest, plus, if applicable, (3) a premium or make-whole amount determined by a quotation agent, equal to the sum of the present value of scheduled payments of principal and interest from the issue date of the subordinated debt securities to their redemption date, discounted at a rate equal to a U.S. treasury rate plus some fixed amount or amounts); or
- contain any other material provision described only in the prospectus supplement.

The material U.S. federal income tax consequences of the purchase, ownership and disposition of capital securities in a trust owning the underlying subordinated debt securities that contain these terms will be described in the applicable prospectus supplement.

The statements of law or legal conclusion set forth in this discussion constitute the opinion of Sullivan & Cromwell LLP, special tax counsel to us and each Issuer Trust. This summary is based upon the U.S. Internal Revenue Code of 1986, as amended, its legislative history, existing and proposed regulations under the Internal Revenue Code, published rulings and court decisions, all as currently in effect. These laws are subject to change, possibly on a retroactive basis. The authorities on which this discussion is based are subject to various interpretations, and it is therefore possible that the federal income tax treatment of the purchase, ownership and disposition of capital securities may differ from the treatment described below.

Please consult your own tax advisor concerning the consequences of owning the capital securities in your particular circumstances under the Internal Revenue Code and the laws of any other taxing jurisdiction.

Classification of the Issuer Trusts

Under current law and assuming full compliance with the terms of an amended trust agreement substantially in the form attached to this prospectus as an exhibit and the indenture, each Issuer Trust will not be taxable as a corporation for U.S. federal income tax purposes. As a result, you will be required to include in your gross income your proportional share of the interest income, including original issue discount, paid or accrued on the subordinated debt securities, whether or not the trust actually distributes cash to you.

Interest Income and Original Issue Discount

Under Treasury regulations, an issuer and the Internal Revenue Service will ignore a “remote” contingency that stated interest will not be timely paid when determining whether a subordinated debt security is issued with original issue discount. On the date of this prospectus, we currently believe that the likelihood of exercising our option to defer interest payments is remote because we would be prohibited from making certain distributions on our capital stock and payments on our indebtedness if we exercise that option. Accordingly, we currently believe that the subordinated debt securities will not be considered to be issued with original issue discount at the time of their original issuance. However, if our belief changes on the date any capital security is issued, we will describe the relevant U.S. federal income tax consequences in the applicable prospectus supplement.

Under these regulations, if we were to exercise our option to defer any payment of interest, the subordinated debt securities would at that time be treated as issued with original issue discount, and all stated interest on the subordinated debt securities would thereafter be treated as original issue

discount as long as the subordinated debt securities remained outstanding. In that event, all of your taxable interest income on the subordinated debt securities would be accounted for as original issue discount on an economic accrual basis regardless of your method of tax accounting, and actual distributions of stated interest would not be reported as taxable income. Consequently, you would be required to include original issue discount in gross income even though we would not make any actual cash payments during an extension period.

These regulations have not been addressed in any rulings or other interpretations by the Internal Revenue Service, and it is possible that the Internal Revenue Service could take a position contrary to the interpretation in this prospectus.

Because income on the capital securities will constitute interest or original issue discount, corporate U.S. holders of the capital securities will not be entitled to a dividends-received deduction for any income taken into account on the capital securities.

Moreover, because income on the capital securities will constitute interest or original issue discount, U.S. holders of the capital securities will not be entitled to the preferential tax rate (generally 15%) generally applicable to payments of dividends before January 1, 2011.

In the rest of this discussion, we assume that unless and until we exercise our option to defer any payment of interest, the subordinated debt securities will not be treated as issued with original issue discount, and whenever we use the term interest, it also includes income in the form of original issue discount.

Distribution of Subordinated Debt Securities to Holders of Capital Securities Upon Liquidation of the Issuer Trusts

If the applicable Issuer Trust distributes the subordinated debentures as described above under the caption "Description of Capital Securities and Related Instruments — Liquidation Distribution Upon Dissolution", you will receive directly your proportional share of the subordinated debt securities previously held indirectly through the trust. Under current law, you will not be taxed on the distribution and your holding period and aggregate tax basis in your subordinated debt securities will be equal to the holding period and aggregate tax basis you had in your capital securities before the distribution. If, however, the trust were to become taxed on the income received or accrued on the subordinated debt securities due to a tax event, the trust might be taxed on a distribution of subordinated debt securities to you, and you might recognize gain or loss as if you had exchanged your capital securities for the subordinated debt securities you received upon the liquidation of the trust. You will include interest in income in respect of subordinated debt securities received from the trust in the manner described above under "— Taxation of Debt Securities — Interest Income and Original Issue Discount".

Sale or Redemption of Capital Securities

If you sell your capital securities, including through a redemption for cash, you will recognize gain or loss equal to the difference between your adjusted tax basis in your capital securities and the amount you realize on the sale of your capital securities. Assuming that we do not exercise our option to defer payment of interest on the subordinated debt securities, your adjusted tax basis in your capital securities generally will be the price you paid for your capital securities.

If the subordinated debt securities are deemed to be issued with original issue discount as a result of an actual deferral of interest payments, your adjusted tax basis in your capital securities generally will be the price you paid for your capital securities, increased by original issue discount previously includible in your gross income to the date of disposition and decreased by distributions or other payments you received on your capital securities since and including the date of the first extension period. This gain or loss generally will be capital gain or loss, except to the extent any amount that you realize is treated as a payment of accrued interest on your proportional share of the subordinated debt securities required to be included in income. Capital gain of a non-corporate United

States holder that is recognized in taxable years beginning before January 1, 2011 is generally taxed at a maximum rate of 15% where the holder has a holding period greater than one year.

If we exercise our option to defer any payment of interest on the subordinated debt securities, our capital securities may trade at a price that does not accurately reflect the value of accrued but unpaid interest with respect to the underlying subordinated debt securities. If you sell your capital securities before the record date for the payment of distributions, you will not receive payment of a distribution for the period before the sale. However, you will be required to include accrued but unpaid interest on the subordinated debt securities through the date of the sale as ordinary income for U.S. federal income tax purposes and to add the amount of accrued but unpaid interest to your tax basis in the capital securities. Your increased tax basis in the capital securities will increase the amount of any capital loss that you may have otherwise realized on the sale. In general, an individual taxpayer may offset only $3,000 of capital losses against regular income during any year.

Backup Withholding Tax and Information Reporting

We will be required to report the amount of interest income paid and original issue discount accrued on your capital securities to the Internal Revenue Service unless you are a corporation or other exempt U.S. holder. Backup withholding will apply to payments of interest to you unless you are an exempt U.S. holder or you furnish your taxpayer identification number in the manner prescribed in applicable regulations, certify that such number is correct, certify as to no loss of exemption from backup withholding and meet certain other conditions.

Payment of the proceeds from the disposition of capital securities to or through the U.S. office of a broker is subject to information reporting and backup withholding unless you establish an exemption from information reporting and backup withholding.

Any amounts withheld from you under the backup withholding rules will be allowed as a refund or a credit against your U.S. federal income tax liability, provided the required information is furnished to the Internal Revenue Service.

It is anticipated that each Issuer Trust or its paying agent will report income on the capital securities to the Internal Revenue Service and to you on Form 1099 by January 31 following each calendar year.

PLAN OF DISTRIBUTION

Initial Offering and Sale of Securities

We or the Issuer Trusts, as applicable, may sell the securities from time to time in their initial offering as follows:

- through agents;
- to dealers or underwriters for resale;
- directly to purchasers; or
- through a combination of any of these methods of sale.

In addition, we may issue the securities as a dividend or distribution or in a subscription rights offering to our existing security holders. In some cases, we or dealers acting with us or on our behalf may also purchase securities and reoffer them to the public by one or more of the methods described above. This prospectus may be used in connection with any offering of our securities or capital securities of the Issuer Trusts through any of these methods or other methods described in the applicable prospectus supplement.

The securities we distribute by any of these methods may be sold to the public, in one or more transactions, either:

- at a fixed price or prices, which may be changed;
- at market prices prevailing at the time of sale;
- at prices related to prevailing market prices; or
- at negotiated prices.

We or the Issuer Trusts, as applicable, may solicit offers to purchase securities directly from the public from time to time. We may also designate agents from time to time to solicit offers to purchase securities from the public on our behalf. If required, the prospectus supplement relating to any particular offering of securities will name any agents designated to solicit offers, and will include information about any commissions we or the Issuer Trusts may pay the agents, in that offering. Agents may be deemed to be “underwriters” as that term is defined in the Securities Act.

From time to time, we or the Issuer Trusts may sell securities to one or more dealers acting as principals. The dealers, who may be deemed to be “underwriters” as that term is defined in the Securities Act, may then resell those securities to the public.

We or the Issuer Trusts may sell securities from time to time to one or more underwriters, who would purchase the securities as principal for resale to the public, either on a firm-commitment or best-efforts basis. If we or the Issuer Trusts sell securities to underwriters, we or the Issuer Trusts may execute an underwriting agreement with them at the time of sale and will name them in the applicable prospectus supplement. In connection with those sales, underwriters may be deemed to have received compensation from us or the Issuer Trusts in the form of underwriting discounts or commissions and may also receive commissions from purchasers of the securities for whom they may act as agents. Underwriters may resell the securities to or through dealers, and those dealers may receive compensation in the form of discounts, concessions or commissions from the underwriters and/or commissions from purchasers for whom they may act as agents. The applicable prospectus supplement will include any required information about underwriting compensation we pay to underwriters, and any discounts, concessions or commissions underwriters allow to participating dealers, in connection with an offering of securities.

If we offer securities in a subscription rights offering to our existing security holders, we may enter into a standby underwriting agreement with dealers, acting as standby underwriters. We may pay the standby underwriters a commitment fee for the securities they commit to purchase on a standby basis.

If we do not enter into a standby underwriting arrangement, we may retain a dealer-manager to manage a subscription rights offering for us.

We or the Issuer Trusts, as applicable, may authorize underwriters, dealers and agents to solicit from third parties offers to purchase securities under contracts providing for payment and delivery on future dates. The applicable prospectus supplement will describe the material terms of these contracts, including any conditions to the purchasers' obligations, and will include any required information about commissions we may pay for soliciting these contracts.

Underwriters, dealers, agents and other persons may be entitled, under agreements that they may enter into with us, to indemnification by us or the Issuer Trusts, as applicable, against certain liabilities, including liabilities under the Securities Act.

In connection with an offering, the underwriters may purchase and sell securities in the open market. These transactions may include short sales, stabilizing transactions and purchases to cover positions created by short sales. Short sales involve the sale by the underwriters of a greater number of securities than they are required to purchase in an offering. Stabilizing transactions consist of certain bids or purchases made for the purpose of preventing or retarding a decline in the market price of the securities while an offering is in progress.

The underwriters also may impose a penalty bid. This occurs when a particular underwriter repays to the underwriters a portion of the underwriting discount received by it because the underwriters have repurchased securities sold by or for the account of that underwriter in stabilizing or short-covering transactions.

These activities by the underwriters may stabilize, maintain or otherwise affect the market price of the securities. As a result, the price of the securities may be higher than the price that otherwise might exist in the open market. If these activities are commenced, they may be discontinued by the underwriters at any time. These transactions may be effected on an exchange or automated quotation system, if the securities are listed on that exchange or admitted for trading on that automated quotation system, or in the over-the-counter market or otherwise.

The underwriters, dealers and agents, as well as their associates, may be customers of or lenders to, and may engage in transactions with and perform services for, The Goldman Sachs Group, Inc., its subsidiaries and the Issuer Trusts in the ordinary course of business. In addition, we expect to offer the securities to or through our affiliates, as underwriters, dealers or agents. Among our affiliates, Goldman, Sachs & Co. may offer the securities for sale in the United States and Goldman Sachs International and Goldman Sachs (Asia) L.L.C. may offer the securities for sale outside the United States. Our affiliates may also offer the securities in other markets through one or more selling agents, including one another.

Goldman, Sachs & Co. is a subsidiary of The Goldman Sachs Group, Inc. and The Goldman Sachs Group, Inc. is the parent of Goldman, Sachs & Co. Rule 2720 of the Conduct Rules of the National Association of Securities Dealers, Inc. imposes certain requirements when an NASD member, such as Goldman, Sachs & Co., distributes an affiliated company's securities. Goldman, Sachs & Co. has advised The Goldman Sachs Group, Inc. that each particular offering of securities in which it participates will comply with the applicable requirements of Rule 2720. In addition, offerings of capital securities will be conducted in compliance with Rule 2810 of the NASD's Conduct Rules, as applicable.

Neither Goldman, Sachs & Co. nor any other NASD member is permitted to sell securities in an offering to an account over which it exercises discretionary authority without the prior written approval of the customer to which the account relates.

Market-Making Resales by Affiliates

This prospectus may be used by Goldman, Sachs & Co. in connection with offers and sales of the securities in market-making transactions. In a market-making transaction, Goldman, Sachs & Co. may resell a security it acquires from other holders, after the original offering and sale of the security. Resales of this kind may occur in the open market or may be privately negotiated, at prevailing market prices at the time of resale or at related or negotiated prices. In these transactions, Goldman, Sachs & Co. may act as principal or agent, including as agent for the counterparty in a transaction in which Goldman, Sachs & Co. acts as principal, or as agent for both counterparties in a transaction in which Goldman, Sachs & Co. does not act as principal. Goldman, Sachs & Co. may receive compensation in the form of discounts and commissions, including from both counterparties in some cases. Other affiliates of The Goldman Sachs Group, Inc. may also engage in transactions of this kind and may use this prospectus for this purpose. These affiliates may include, among others, Goldman Sachs International and Goldman Sachs (Asia) L.L.C.

The securities to be sold in market-making transactions include securities to be issued after the date of this prospectus, as well as securities previously issued.

The Goldman Sachs Group, Inc. does not expect to receive any proceeds from market-making transactions. The Goldman Sachs Group, Inc. does not expect that Goldman, Sachs & Co. or any other affiliate that engages in these transactions will pay any proceeds from its market-making resales to The Goldman Sachs Group, Inc.

Information about the trade and settlement dates, as well as the purchase price, for a market-making transaction will be provided to the purchaser in a separate confirmation of sale.

Unless The Goldman Sachs Group, Inc. or an agent informs you in your confirmation of sale that your security is being purchased in its original offering and sale, you may assume that you are purchasing your security in a market-making transaction.

Matters Relating to Initial Offering and Market-Making Resales

Each series of securities will be a new issue, and there will be no established trading market for any security prior to its original issue date. Neither we nor the Issuer Trusts may list any particular series of securities on a securities exchange or quotation system. We and the Issuer Trusts have been advised by Goldman, Sachs & Co. that it intends to make a market in the securities, and any underwriters to whom we or the Issuer Trusts sell securities for public offering may also make a market in those securities. However, neither Goldman, Sachs & Co. nor any underwriter that makes a market is obligated to do so, and any of them may stop doing so at any time without notice. No assurance can be given as to the liquidity or trading market for any of the securities.

Unless otherwise indicated in the applicable prospectus supplement or confirmation of sale, the purchase price of the securities will be required to be paid in immediately available funds in New York City.

In this prospectus, the terms “this offering” means the initial offering of the securities made in connection with their original issuance. This term does not refer to any subsequent resales of securities in market-making transactions.

EMPLOYEE RETIREMENT INCOME SECURITY ACT

This section is only relevant to you if you are an insurance company or the fiduciary of a pension plan or an employee benefit plan (including a governmental plan, an IRA or a Keogh Plan) proposing to invest in the securities.

The U.S. Employee Retirement Income Security Act of 1974, as amended ("ERISA") and the U.S. Internal Revenue Code of 1986, as amended (the "Code"), prohibit certain transactions ("prohibited transactions") involving the assets of an employee benefit plan that is subject to the fiduciary responsibility provisions of ERISA or Section 4975 of the Code (including individual retirement accounts and other plans described in Section 4975(e)(1) of the Code) (a "Plan") and certain persons who are "parties in interest" (within the meaning of ERISA) or "disqualified persons" (within the meaning of the Code) with respect to the Plan; governmental plans may be subject to similar prohibitions unless an exemption is available to the transaction. The Goldman Sachs Group, Inc. and certain of its affiliates each may be considered a "party in interest" or a "disqualified person" with respect to many employee benefit plans, and, accordingly, prohibited transactions may arise if the securities are acquired by a Plan unless those securities are acquired and held pursuant to an available exemption. In general, available exemptions are: transactions effected on behalf of that Plan by a "qualified professional asset manager" (prohibited transaction exemption 84-14) or an "in-house asset manager" (prohibited transaction exemption 96-23), transactions involving insurance company general accounts (prohibited transaction exemption 95-60), transactions involving insurance company pooled separate accounts (prohibited transaction exemption 90-1), transactions involving bank collective investment funds (prohibited transaction exemption 91-38) and transactions with service providers under an exemption in Section 408(b)(17) of ERISA and Section 4975(d)(20) of the Code where the Plan receives no less nor pays no more than "adequate consideration" (within the meaning of Section 408(b)(17) of ERISA and Section 4975(f)(10) of the Code). The assets of a Plan may include assets held in the general account of an insurance company that are deemed to be "plan assets" under ERISA. The person making the decision on behalf of a Plan or a governmental plan shall be deemed, on behalf of itself and the Plan, by purchasing and holding the securities, or exercising any rights related thereto, to represent that (a) the Plan will receive no less and pay no more than "adequate consideration" (within the meaning of Section 408(b)(17) of ERISA and Section 4975(f)(10) of the Code) in connection with the purchase and holding of the securities, (b) none of the purchase, holding or disposition of the securities or the exercise of any rights related to the securities will result in a non-exempt prohibited transaction under ERISA or the Internal Revenue Code (or, with respect to a governmental plan, under any similar applicable law or regulation), and (c) neither The Goldman Sachs Group, Inc. nor any of its affiliates is a "fiduciary" (within the meaning of Section 3(21) of ERISA) with respect to the purchaser or holder in connection with such person's acquisition, disposition or holding of the securities, or as a result of any exercise by The Goldman Sachs Group, Inc. or any of its affiliates of any rights in connection with the securities, and no advice provided by The Goldman Sachs Group, Inc. or any of its affiliates has formed a primary basis for any investment decision by or on behalf of such purchaser or holder in connection with the securities and the transactions contemplated with respect to the securities. Additional restrictions or considerations may apply with respect to the investment by a Plan or governmental plan in certain securities that may be offered hereunder; any such additional restrictions or considerations will be described in the applicable prospectus supplement.

If you are an insurance company or the fiduciary of a pension plan or an employee benefit plan, and propose to invest in the securities described in this prospectus, you should consult your legal counsel.

VALIDITY OF THE SECURITIES

In connection with particular offerings of the securities in the future, and if stated in the applicable prospectus supplements, the validity of those securities, other than capital securities, may be passed upon for The Goldman Sachs Group, Inc. by Sullivan & Cromwell LLP, New York, New York and for any underwriters or agents by Sullivan & Cromwell LLP or other counsel named in the applicable prospectus supplement. In connection with particular offerings of the capital securities in the future, and if stated in the applicable prospectus supplement, the validity of the capital securities may be passed upon for The Goldman Sachs Group, Inc. and the Issuer Trusts by Richards, Layton & Finger, P.A., Wilmington, Delaware, or other Delaware counsel.

Sullivan & Cromwell LLP has in the past represented and continues to represent Goldman Sachs on a regular basis and in a variety of matters, including offerings of our common and preferred stock and debt securities. Sullivan & Cromwell LLP also performed services for The Goldman Sachs Group, Inc. in connection with the offering of the securities described in this prospectus.

EXPERTS

The financial statements, financial statement schedule, and management's assessment of the effectiveness of internal control over financial reporting (which is included in Management's Report on Internal Control over Financial Reporting) of Goldman Sachs incorporated in this prospectus by reference to the Annual Report on Form 10-K for the fiscal year ended November 25, 2005 have been so incorporated in reliance on the report of PricewaterhouseCoopers LLP, an independent registered public accounting firm, given on the authority of said firm as experts in accounting and auditing.

The historical income statement, balance sheet and common share data set forth in "Selected Financial Data" for each of the five fiscal years in the period ended November 25, 2005 incorporated by reference in this prospectus have been so included in reliance on the report of PricewaterhouseCoopers LLP, an independent registered public accounting firm, given on the authority of said firm as experts in auditing and accounting.

With respect to the unaudited condensed consolidated financial statements of Goldman Sachs as of and for the three months ended February 24, 2006 and for the three months ended February 25, 2005 incorporated by reference in this prospectus, the unaudited condensed consolidated financial statements of Goldman Sachs as of and for the three and six months ended May 26, 2006 and for the three and six months ended May 27, 2005 incorporated by reference in this prospectus, and the unaudited condensed consolidated financial statements of Goldman Sachs as of and for the three and nine months ended August 25, 2006 and for the three and nine months ended August 26, 2005 incorporated by reference in this prospectus, PricewaterhouseCoopers LLP reported that they have applied limited procedures in accordance with professional standards for a review of such information. However, their separate reports dated March 30, 2006, June 29, 2006 and September 28, 2006 incorporated by reference herein state that they did not audit and they do not express an opinion on the unaudited condensed consolidated financial statements. Accordingly, the degree of reliance on their reports on such information should be restricted in light of the limited nature of the review procedures applied. PricewaterhouseCoopers LLP is not subject to the liability provisions of Section 11 of the Securities Act of 1933 for their reports on the unaudited condensed consolidated financial statements because the reports are not "reports" or a "part" of the registration statements prepared or certified by PricewaterhouseCoopers LLP within the meaning of Sections 7 and 11 of the Securities Act of 1933.

CAUTIONARY STATEMENT PURSUANT TO THE PRIVATE SECURITIES LITIGATION REFORM ACT OF 1995

We have included or incorporated by reference in this prospectus statements that may constitute "forward-looking statements" within the meaning of the safe harbor provisions of The Private Securities Litigation Reform Act of 1995. These forward-looking statements are not historical facts but instead represent only our belief regarding future events, many of which, by their nature, are inherently uncertain and outside of our control. It is possible that our actual results may differ, possibly materially, from the anticipated results indicated in these forward-looking statements.

Information regarding important factors that could cause actual results to differ, perhaps materially, from those in our forward-looking statements is contained under "Risk Factors" in Part I, Item 1A of our Annual Report on Form 10-K for the fiscal year ended November 25, 2005, which is incorporated in this prospectus by reference (and in any of our annual reports for a subsequent fiscal year that are so incorporated). See "Available Information" above for information about how to obtain a copy of this annual report.

No dealer, salesperson or other person is authorized to give any information or to represent anything not contained in this prospectus. You must not rely on any unauthorized information or representations. This prospectus is an offer to sell only the securities offered hereby, but only under circumstances and in jurisdictions where it is lawful to do so. The information contained in this prospectus is current only as of its date.

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Prospectus Supplement

Prospectus dated December 5, 2006

1,750,000 Normal APEX

Goldman Sachs Capital II

5.793% Fixed-to-Floating Rate Normal APEX
(with a liquidation amount of $1,000 per security)
fully and unconditionally guaranteed, to the extent
described herein, by

The Goldman Sachs Group, Inc.

Goldman, Sachs & Co.

BNP PARIBAS
BNY Capital Markets, Inc.
CastleOak Securities, L.P.
Citi
Daiwa Securities SMBC Europe
Guzman & Company
HSBC
HVB Capital Markets
JPMorgan
Ramirez & Co., Inc.
Santander Investment
SunTrust Robinson Humphrey
UTENDAHL CAPITAL PARTNERS, L.P.
Wachovia Securities
Wells Fargo Securities