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Division of Investment Management
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-0504

Re: Classification of Foundations as Qualified Purchasers under Section 2(a)(51) of the Investment Company Act of 1940, as amended (the "1940 Act")

Gentlemen:

Goldman Sachs Asset Management, L.P. requests confirmation that the Division of Investment Management (the "Division") would not recommend that the Securities and Exchange Commission (the "Commission") take enforcement action under Section 7 of the 1940 Act against Goldman Sachs Asset Management, L.P. or any of its affiliates (collectively, "Goldman Sachs"), or against investment funds managed or distributed by Goldman Sachs that are excepted from the definition of "investment company" in reliance on Section 3(c)(7) ("Private Funds"), based on their treatment of certain foundations that are formed as non profit, non-stock corporations ("charitable corporations") as "qualified purchasers" for purposes of Section 2(a)(51) of the 1940 Act under the circumstances described below.¹

¹ Section references are to the 1940 Act unless otherwise specified. Section 3(c)(7) excludes from the definition of investment company any issuer whose outstanding securities are owned exclusively by persons who, at the time of acquisition of the securities, are qualified purchasers, and which is not making and does not propose to make a public offering of its securities. Section 7(a) prohibits an investment company organized or otherwise created under the laws of the United States or of a state and having a board of directors from, among other things, offering or selling any security (or engaging in certain other activities) by use of the mails or any means or instrumentality of interstate commerce unless the company is registered under the 1940 Act. Section 7(d) prohibits investment companies organized outside of the United States from making a public offering. A fund organized outside of the United States in which U.S. persons invest will ordinarily be considered to be a Section 3(c)(7) issuer because it makes a private offering (if any) in the U.S., and requires all of its owners who are U.S. persons to be qualified purchasers. See Registration Under the Advisers Act of Certain Hedge Fund Advisers, Investment Advisers Act Rel. No. 2333 (Dec. 2, 2004) at note 226. Thus, in the case of a Private Fund organized outside of the United

