



DIVISION OF
CORPORATION FINANCE

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

April 15, 2024

Luke Morgan
As You Sow

Re: The Goldman Sachs Group, Inc. (the "Company")
Incoming letter dated March 15, 2024

Dear Luke Morgan:

This letter is in response to your correspondence concerning the shareholder proposal submitted to the Company by the Mack Street 2016 Trust (S) and co-filer. In response to a December 22, 2023 request from the Company, on March 4, 2024 we issued a letter expressing our informal views on the matter. You have asked us to reconsider our position or present the matter to the Commission.

The staff gives due consideration to management's schedule for printing its proxy materials in determining whether to act upon requests for reconsideration and Commission review. *See* Statement of Informal Procedures for the Rendering of Staff Advice with Respect to Shareholder Proposals, Exchange Act Release No. 12599 (July 7, 1976). In light of the Company's timing considerations, we have determined not to act upon the request for reconsideration and Commission review.

Copies of all of the correspondence on which this response is based will be made available on our website at <https://www.sec.gov/corpfin/2023-2024-shareholder-proposals-no-action>.

Sincerely,

Michael P. Seaman
Chief Counsel
Division of Corporation Finance

cc: Jamie Greenberg
The Goldman Sachs Group, Inc.

March 15, 2024

VIA ONLINE SUBMISSION

Office of Chief Counsel
Division of Corporation Finance
U.S. Securities and Exchange Commission
100 F Street NE
Washington, DC 20549

Email: shareholderproposals@sec.gov

Re: Request for Staff Reconsideration, and Presentation to Commission for Review, of March 4, 2024 Staff Decision Concurring in The Goldman Sachs Group, Inc.’s Exclusion of Shareholder Proposal of Mack Street 2016 Trust (S)

Ladies and Gentlemen:

By letter dated March 4, 2024, the Staff stated that it would not recommend enforcement action to the Commission if The Goldman Sachs Group, Inc. (the “Company” or “Goldman”) were to omit from its 2024 proxy materials a shareholder proposal requesting information concerning its climate transition planning (the “Proposal”), submitted by Mack Street 2016 Trust (S) (the “Proponent”). Proponent respectfully requests that the Staff reconsider the no-action decision and/or present it to the Commission for review. As described herein, the decision is inconsistent with the Commission’s subsequently released Final Rule for “The Enhancement and Standardization of Climate-Related Disclosures for Investors.”¹

As explained in the Proposal and in Proponent’s no-action response letter, Goldman has adopted certain climate goals and commitments, including a commitment to align its financing activities with a net zero by 2050 pathway. To meet that commitment, the Company has implemented a transition plan involving sectoral 2030 interim targets. The Proposal requests basic information concerning the Company’s likelihood of meeting those targets, based on the Company’s own disclosures that it gathers such data. The requested information seeks a basic statement of the proportion of financed emissions associated with clients aligned with a 1.5° pathway, *i.e.*, based on client transition readiness, is it likely that Goldman can meet its 2030 goals? The Staff concurred with the Company’s argument that this simple disclosure request constitutes micromanagement.

However, on March 6, 2024, the Commission adopted the Climate Disclosure Rule. That Rule recognized the necessity of full and complete disclosure by issuers concerning any climate transition plans they adopt:

As noted in the Proposing Release, registrants may adopt transition plans to mitigate or adapt to climate-related risks as an important part of their climate-related risk management strategy, particularly if the registrant has made

¹ See Final Rule, *The Enhancement and Standardization of Climate-Related Disclosures for Investors*, Securities and Exchange Commission (Mar. 6, 2024), <https://www.sec.gov/files/rules/final/2024/33-11275.pdf> (hereinafter the “Climate Disclosure Rule”).

commitments, or operates in a jurisdiction that has made commitments, to reduce its GHG emissions. We recognize that not every registrant has a transition plan and, as noted above, this rulemaking does not seek to prescribe any particular tools, strategies, or practices with respect to climate-related risks. If, however, a registrant has adopted such a plan, information regarding the plan is important to help investors evaluate a registrant's management of its identified climate-related risks and assess the potential impacts of a registrant's strategy to achieve its short- or long-term climate-related targets or goals on its business, results of operations, and/or its financial condition. Moreover, a registrant's transition plan may have a significant impact on its overall business strategy, for example, where companies operate in jurisdictions with laws or regulations in place designed to move them away from high emissions products and services. Because the steps a registrant plans to take pursuant to its transition plan may have a material impact on its business, results of operations, or financial condition, investors have sought more detailed disclosure about transition plans.²

As such, the Commission adopted a rule requiring the disclosure of information about issuers' climate transition plans, specifically noting that "many registrants are not providing decision-useful information about their transition plans."³ Compare with Proponent's No-Action Response Letter at p. 6 (noting necessity of requested information for investors' decision-making).

The final rule defines a "transition plan" as "a registrant's strategy and implementation plan to reduce climate-related risks, which may include a plan to reduce its GHG emissions in line with its own commitments."⁴ It then makes, as relevant here, two essential disclosure requirements:

- First, "[i]f a registrant has adopted a transition plan to manage a material transition risk, describe the plan." The registrant must further "update its annual report disclosure about the transition plan each fiscal year by describing any actions taken during the year under the plan, including how such actions have impacted the registrant's business, results of operations, or financial condition." And the registrant must include "quantitative and qualitative disclosure of material expenditures incurred and material impacts on financial estimates and assumptions as a direct result of the transition plan disclosed."⁵
- Second, registrants "must disclose any climate-related target or goal if such target or goal has materially affected or is reasonably likely to materially affect the registrant's business, results of operations, or financial condition." Moreover, critically, the "registrant **must provide any additional information or explanation necessary to an understanding of the material impact or reasonably likely material impact of the target or goal,**" including "but not limited to" (a) "qualitative description of how the registrant intends to meet its climate-related targets or goals," (b) "**any progress made**

² Climate Disclosure Rule at 132 (emphasis added).

³ *Id.* at 133 (emphasis added).

⁴ *Id.* at 852.

⁵ *Id.* at 855.

toward meeting the target or goal and how any such progress has been achieved,” to be updated annually, including a qualitative discussion of impacts to the registrant’s business.⁶

For the reasons described in Proponent’s No-Action Response Letter, the disclosures sought by the Proposal fall directly within the scope of the Climate Disclosure Rule. Thus, it is impossible to argue that the Proposal “micromanages” the Company, either by seeking information that is “too granular” or, as the Company argued, by limiting the Company’s discretion not to disclose the requested information. The Climate Disclosure Rule firmly establishes that the information sought in the Proposal is properly of interest to investors, the information is *less granular* than much of the information required to be disclosed by the Climate Disclosure Rule, and the Climate Disclosure Rule puts to rest any argument that the Company has unfettered discretion to decide the nature of its climate disclosures.

The Company is collecting this data, the data is critical to investor understanding of the likelihood of success of the Company’s data, and the Company is refusing to disclose this dispositive information, even in a broad and undifferentiated manner. As the Proponent’s No-Action Response Letter explained, the information sought in the Proposal is *necessary* for investors to understand the progress the Company is making towards its overall 2050 Net Zero financed emissions goal, as well as in the implementation of its 2030 interim target transition plan. The Company’s current disclosures concede as much by acknowledging that the central component of its own climate transition strategy entails “active engagement with [its] clients” to “support ambitious transition plans” and that this approach is critical to both its climate strategy and its broader business strategy.⁷

In light of acknowledgment from the Company that the “north star” of its climate strategy “is an understanding that [its] role is to help [its] clients take action that accelerates decarbonization” and its statement that its 2030 targets were chosen because Goldman believed they represented areas where the Company could “have the most material impact,”⁸ there can be no question that its clients’ transition progress is a material component of the Company’s climate transition planning and its climate-related goals — and that its transition planning and its climate-related goals are material to the Company’s business. The Proposal simply asks the Company to disclose aggregate information about its clients’ transition progress. The information requested by the Proposal is therefore arguably *required* by the Climate Disclosure Rule, as that Rule is intended, as the Commission states, to help investors “evaluate a registrant’s management of its identified climate-related risks and assess the potential impacts of a registrant’s strategy to achieve its short- or long-term climate-related targets or goals on its business, results of operations, and/or its financial condition.”⁹

⁶ *Id.* at 858 (emphasis added).

⁷ Goldman Sachs, *Accelerating Transition: Task Force on Climate-Related Financial Disclosures Report 2021* (“2021 TCFD Report”) at 39, 49 (December 2021), <https://www.goldmansachs.com/tcfid-report-2021/accelerating-transition-report.pdf>.

⁸ *Id.* at 40, 42.

⁹ *See* Climate Disclosure Rule at 132.

Finally, as Proponent noted in its initial response, the information requested by the Proposal, when compared to the Company’s existing disclosures, is necessary to evaluate the potential “significant impact” that the Company’s “transition plan may have . . . on its overall business strategy.”¹⁰ This is true in part because if the Company’s clients’ transition progress is not in-line with its goals, the Company “may need to adopt additional measures to meet its emission reduction goals.”¹¹ For example, if Goldman’s clients in a certain sector are not transitioning at the pace required for the Company to meet its 2030 or 2050 goals, it follows logically that the Company will have to consider additional actions. The information provided by the Proposal — which the Company is already collecting — can provide investors with full disclosure as to this fact.

As such, while Proponent disagrees strongly with the Staff’s initial no-action decision, if there was any question whether the Proposal fell into either the “granularity” or “Company discretion” prongs of the micromanagement standard, the Climate Disclosure Rule puts it firmly to rest and arguably compels the disclosure of the information requested in the Proposal.¹²

Based on the foregoing, Proponent believes that the no-action decision bears revisiting and respectfully requests that the Staff reconsider it. Failing that, Proponent requests that the Division of Corporation Finance forward to the Commission this petition for review.

Sincerely,



Luke Morgan
Staff Attorney, *As You Sow*

cc:

Jamie Greenberg, Goldman Sachs Group, Inc.

¹⁰ *See id.*

¹¹ Proponent No-Action Response at 1.

¹² It goes without saying that agencies are required, first and foremost, to follow their own rules. To contravene the Commission’s Climate Disclosure Rule therefore would constitute arbitrary and capricious agency action. *See Achnar Broadcasting Co. v. FCC*, 62 F.3d 1441 (D.C. Cir. 1995) (acknowledging “rudimentary principle that agencies are bound to adhere to their own rules and procedures”).

From: [Greenberg, Jamie](#)
To: [ShareholderProposals](#)
Cc: [Luke Morgan](#); Michael.Bosworth@ny.email.gs.com; eising@gibsondunn.com; shareholderproposals@ny.email.gs.com
Subject: RE: Rule 14a-8 no-action response: The Goldman Sachs Group, Inc. / Mack Street 2016 Trust (S)
Date: Friday, March 15, 2024 3:28:36 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

We are in receipt of notice from As You Sow regarding a request for reconsideration of the Staff's no-action letter dated March 4, 2024 concurring that Goldman Sachs can exclude the shareholder proposal received from As You Sow on behalf of Mack Street 2016 Trust (S) and James C Manolis (S) regarding disclosure of emissions attributable to clients not aligned with a net zero pathway. Please note that Goldman Sachs has already printed its 2024 proxy materials, filed the definitive proxy statement with the Securities and Exchange Commission this morning before receipt of that notice (available [here](#)) and has already commenced mailing these materials.

Thank you.

Jamie Greenberg
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From: ShareholderProposals <shareholderproposals@SEC.GOV>
Sent: Monday, March 04, 2024 3:09 PM
To: Greenberg, Jamie [Legal] <Jamie.Greenberg@ny.email.gs.com>
Cc: Luke Morgan <Lmorgan@asyousow.org>
Subject: Rule 14a-8 no-action response: The Goldman Sachs Group, Inc. / Mack Street 2016 Trust (S)

Please see the attached Rule 14a-8 no-action response. If you have any questions or are unable to open the attachment, please call the Office of Chief Counsel in the SEC's Division of Corporation Finance at (202) 551-3520.

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