
On April 16, 2010, the Commission filed a civil injunctive action in U.S. District Court for the Southern District of New York charging Defendant with violating the antifraud provisions of the federal securities laws. In its complaint, the Commission alleged that Defendant misstated and omitted key facts regarding a synthetic collateralized debt obligation (“CDO”) that hinged on the performance of subprime residential mortgage-backed securities. Defendant failed to disclose to investors vital information about the CDO, in particular the role that a major hedge fund played in the portfolio selection process and the fact that the hedge fund had taken a short position against the CDO. On July 20, 2010, pursuant to Defendant’s consent, the Southern District of New York entered a Final Judgment permanently enjoining Defendant from violating Section 17(a) of the Securities Act, requiring Defendant to pay disgorgement and a penalty, and requiring Defendant to comply with specified remedial undertakings.

The safe harbor provisions of Section 27A(c) of the Securities Act and Section 21E(c) of the Exchange Act are not available for any forward looking statement that is “made with respect to the business or operations of an issuer, if the issuer . . . during the 3-year period preceding the date on which the statement was first made . . . has been made the subject of a judicial or
administrative decree or order arising out of a governmental action that (I) prohibits future violations of the antifraud provisions of the federal securities laws; (II) requires that the issuer cease and desist from violating the antifraud provisions of the securities laws; or (III) determines that the issuer violated the antifraud provisions of the securities laws[.]” Section 27A(b)(1)(A)(ii) of the Securities Act and Section 21E(b)(1)(A)(ii) of the Exchange Act. The disqualifications may be waived “to the extent otherwise specifically provided by rule, regulation, or order of the Commission.” Section 27A(b) of the Securities Act and Section 21E(b) of the Exchange Act.

Based on the representations set forth in Goldman’s letter, the Commission has determined that, under the circumstances, the request for a waiver of the disqualifications resulting from the entry of the Judgment is appropriate and should be granted.

Accordingly, IT IS ORDERED, pursuant to Section 27A(b) of the Securities Act and Section 21E(b) of the Exchange Act, that a waiver from the disqualification provisions of Section 27A(b)(1)(A)(ii) of the Securities Act and Section 21E(b)(1)(A)(ii) of the Exchange Act as to Goldman and its affiliates resulting from the entry of the Judgment is hereby granted.

By the Commission.

Elizabeth M. Murphy
Secretary