

BY FAX AND MAIL

July 24, 2009

Ms. Mary Schapiro  
Chairman  
U.S. Securities and Exchange Commission  
100 F Ste., NE  
Washington, DC 20549

Mr. Gary Gensler  
Chairman  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21st Street, NW  
Washington, DC 20581

Dear Chairmen Schapiro and Gensler:

I am writing to request that you investigate and, if appropriate, eliminate loopholes and special secret exemptions that appear to have given Goldman Sachs an unfair securities market advantage and a unique ability to manipulate commodities markets. I am also requesting information on how the SEC and CFTC plan to ensure that the sort of behavior apparently engaged in by Goldman Sachs in the public markets does not incur in any future carbon market created by the climate legislation now being considered by Congress.

Just two examples of these concerns are:

- According to a *New York Times* report (July 24, 2009), Goldman exploits a loophole in securities market rules allowing the firm to see incoming stock market orders 30-milliseconds ahead of the public in order to “trade ahead” or to “front-run” the market. As a former SEC lawyer and a mutual fund manager, it was my impression that such conduct was illegal. Is there a reason why the trading rules that apply to everyone else don’t apply to Goldman Sachs?
- According to a *Rolling Stone* report (Issue 1082-83, June 2009), Goldman received special — and essentially secret — permission from the CFTC to take larger positions in the commodities futures markets than otherwise permitted, which may have helped to cause the 2008 oil bubble. This permission was so secret that the CFTC felt it necessary to obtain Goldman’s permission to release the details to Congress. Who regulates whom in the commodities markets?

The increasing concerns about Goldman and any future carbon trading are:

- Goldman Sachs is a major owner of the exchanges where carbon allowances would be traded and can also be expected to take significant proprietary positions in the carbon market. Since the first line of regulation in the securities and commodity markets is the self-regulatory organization that operates each particular market, is it reasonable to rely on Goldman to regulate itself?
- Goldman Sachs has spent millions of dollars lobbying for legislation to establish the carbon markets that it will dominate and to compel greenhouse gas emitters to participate in them.
- Goldman Sachs has contributed millions of dollars to congressional Democrats and to President Obama during 2008 who are sponsoring/supporting the legislation that would create the carbon market.

Securities and commodities markets only work when investors have confidence in their fairness. Since even the appearance of impropriety should be avoided under the securities rules, recent news reports give investors much reason to lack confidence.

Goldman Sachs appears to be enjoying special government permission to engage in market behaviors that others would be prosecuted for. If this is not the case, then, in light of recent news reports, isn't it incumbent upon the SEC and CFTC to explain the facts to the public?

I look forward to hearing whether you plan to investigate the Goldman front-running and market manipulation allegations and how you plan to avoid future carbon market manipulation.

Sincerely,

Steven J, Milloy  
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