



**Goldman Sachs Bank USA**  
Deposit Notes  
unconditionally and irrevocably guaranteed by  
**The Goldman Sachs Group, Inc.**  
\$561,000

Equity Index Basket-Linked Deposit Notes due 2015  
(Linked to a Basket of Equity Indices Comprised of  
the Dow Jones Industrial Average<sup>®</sup> and the Dow Jones Euro STOXX 50<sup>®</sup> Index)

**The notes do not bear interest.** The amount that you will be paid for each \$1,000 face amount of your notes on the stated maturity date (August 27, 2015, subject to adjustment as described herein) will be an amount equal to the \$1,000 face amount of your notes *plus* the supplemental amount, if any. The supplemental amount will be based on the performance of an equally weighted basket of two equity indices, as measured from the trade date (February 23, 2010) to each of the averaging dates (August 23, 2010, February 23, 2011, August 23, 2011, February 23, 2012, August 23, 2012, February 25, 2013, August 23, 2013, February 24, 2014, August 25, 2014, February 23, 2015 and August 24, 2015, subject to adjustment as described herein). The determination date will be the last averaging date. The indices comprising the basket (which we refer to as the basket indices) have the following initial weights within the basket: the Dow Jones Industrial Average<sup>®</sup> (50%) and the Dow Jones Euro STOXX 50<sup>®</sup> Index (50%).

On the stated maturity date, for each \$1,000 face amount of your notes we will pay you an amount in cash equal to the *sum* of the \$1,000 face amount *plus* the supplemental amount, if any. We will determine the supplemental amount by first calculating the percentage increase or decrease in the level of the basket, which we refer to as the basket return.

The basket return will be determined as follows: First, we will *subtract* the initial basket level (which is equal to 100) from the final basket level. Then, we will *divide* the result by the initial basket level, and express the resulting fraction as a percentage. The final basket level will equal the arithmetic average of the basket closing levels on each of the averaging dates. The basket closing level will equal the *sum* of (i) the final index level for the Dow Jones Industrial Average<sup>®</sup> *divided* by the initial index level for the Dow Jones Industrial Average<sup>®</sup> of 10,282.41 *multiplied* by the *product* of the initial basket level *times* 50%; *plus* (ii) the final index level for the Dow Jones Euro STOXX 50<sup>®</sup> Index *divided* by the initial index level for the Dow Jones Euro STOXX 50<sup>®</sup> Index of 2,730.57 *multiplied* by the *product* of the initial basket level *times* 50%. The final index level with respect to each of the basket indices on each averaging date is the closing level of the relevant basket index on such averaging date.

The amount in cash you will be paid for each \$1,000 face amount of your notes will then be calculated as follows:

- if the final basket level is *greater than* the initial basket level, you will receive \$1,000 *plus* a supplemental amount equal to the *product* of (a) the \$1,000 face amount *multiplied* by (b) the participation rate *multiplied* by (c) the basket return; and
- if the final basket level is *equal to or less than* the initial basket level, your supplemental amount will equal zero, and you will receive your \$1,000 face amount.

Because we have provided only a brief summary of the terms of your notes above, you should read the detailed description of the terms of the notes found in "Summary Information" on page S-2 and in "Specific Terms of Your Notes" on page S-17.

The notes evidence deposit liabilities of Goldman Sachs Bank USA, which are covered, with respect to the face amount only, by federal deposit insurance, up to a maximum limit of \$100,000 (\$250,000 through December 31, 2013) per individual or entity, or \$250,000 per participant in the case of certain retirement accounts, in all cases pursuant to the rules and regulations promulgated by the Federal Deposit Insurance Corporation (the "FDIC"), and subject to the limitations and restrictions set forth therein. This maximum limit is the total protection available for your notes, together with any other deposit accounts you may hold at Goldman Sachs Bank USA in the same title and capacity. In addition, the FDIC has taken the position that the supplemental amount, if any, is not insured by the FDIC in most instances. Also, FDIC insurance does not cover any losses attributable to the sale of your notes prior to maturity and any secondary market premium paid by you above the face amount of the notes is not insured by the FDIC. Thus, the amount of any note that will be insured by the FDIC may be less than the full amount that would otherwise be payable on the note at maturity. For information about the limits of FDIC insurance that apply to the notes and the ranking of the notes relative to other obligations of Goldman Sachs Bank USA, see "Status of Deposit Notes" on page 4 of the accompanying offering circular and "Additional Risk Factors Specific to Your Notes" on page S-9.

*Your investment in the notes involves certain risks. In particular, assuming no changes in market conditions or any other relevant factors, the value of your notes on the trade date (as determined by reference to pricing models used by Goldman, Sachs & Co.) is, and the price you may receive for your notes may be, significantly less than the original issue price. The value or quoted price of your notes at any time will reflect many factors and cannot be predicted; however, the price at which Goldman, Sachs & Co. would initially buy or sell notes (if Goldman, Sachs & Co. makes a market) and the value that Goldman, Sachs & Co. will initially use for account statements and otherwise will significantly exceed the value of your notes using such pricing models. The amount of the excess will decline on a straight line basis over the period from the date of this offering circular supplement through June 23, 2010. We encourage you to read "Additional Risk Factors Specific to Your Notes" on page S-9 so that you may better understand those risks.*

Original issue date: February 26, 2010  
Underwriting discount: 3.50% of the face amount

Original issue price: 100% of the face amount  
Net proceeds to the issuer: 96.50% of the face amount

The notes have not been nor will they be registered under the Securities Act of 1933 (the "Securities Act"). The notes are being offered and sold in reliance upon an exemption from registration provided in Section 3(a)(2) of the Securities Act. The guarantee by The Goldman Sachs Group, Inc. of the notes, which we refer to as the "guarantee", has been registered under the Securities Act and the prospectus relating to the guarantee, dated March 19, 2009, has been filed with the Securities and Exchange Commission (the "SEC"). Information about The Goldman Sachs Group, Inc. on file with the SEC can be inspected and copied at the public reference facilities maintained by the SEC or through the SEC's website at [www.sec.gov](http://www.sec.gov).

Goldman, Sachs & Co. is an affiliate of Goldman Sachs Bank USA and The Goldman Sachs Group, Inc. and, as such, has a "conflict of interest" in this offering within the meaning of NASD Rule 2720. For further information see "Summary Information" on page S-2 and "Supplemental Plan of Distribution—Conflicts of Interest" on page S-46.

Neither the Securities and Exchange Commission nor any other regulatory body has approved or disapproved of the notes or passed upon the accuracy or adequacy of this offering circular supplement, which has not been filed with the SEC. Any representation to the contrary is a criminal offense.

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Goldman Sachs Bank USA may use this offering circular supplement in the initial sale of the notes. In addition, Goldman, Sachs & Co., or any other affiliate of Goldman Sachs Bank USA, may use this offering circular supplement in a market-making transaction in a note after its initial sale. **Unless the purchaser is informed otherwise in the confirmation of sale, this offering circular supplement is being used in a market-making transaction.**

If a secondary market develops, the secondary market price you receive in exchange for your notes may be less than the price you paid for the notes.

## **Goldman, Sachs & Co.**

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Offering Circular Supplement dated February 23, 2010.

"Dow Jones," and "Dow Jones Industrial Average<sup>®</sup>" are service marks of Dow Jones & Company, Inc. ("Dow Jones") and have been licensed for use for certain purposes by Goldman Sachs Bank USA. Goldman Sachs Bank USA's notes linked to the Dow Jones Industrial Average<sup>®</sup> are not sponsored, endorsed, sold or promoted by Dow Jones, and Dow Jones makes no representation regarding the advisability of investing in such notes.

The Dow Jones Euro STOXX 50<sup>®</sup> Index is the intellectual property of (including registered trademarks) STOXX Limited, Zurich, Switzerland and/or Dow Jones & Company, Inc., a Delaware corporation, New York, USA, (the "Licensors"), which is used under license. The notes linked to Dow Jones Euro STOXX 50<sup>®</sup> Index are in no way sponsored, endorsed, sold or promoted by the Licensors and neither of the Licensors shall have any liability with respect thereto.

## SUMMARY INFORMATION

We refer to the notes we are offering by this offering circular supplement as the “offered notes” or the “notes”. Each of the offered notes, including your notes, has the terms described below. Please note that in this offering circular supplement, references to “Goldman Sachs Bank USA”, “we”, “our” and “us” refer only to Goldman Sachs Bank USA and not to The Goldman Sachs Group, Inc.; references to “The Goldman Sachs Group, Inc.” refer only to The Goldman Sachs Group, Inc. and not to its consolidated subsidiaries. When we refer to “Goldman Sachs” in this offering circular supplement, we mean The Goldman Sachs Group, Inc. together with its consolidated subsidiaries and affiliates. Also, references to the “accompanying offering circular” mean the accompanying offering circular, dated May 29, 2009, of Goldman Sachs Bank USA.

### Key Terms

**Issuer:** Goldman Sachs Bank USA

**Guarantor:** The Goldman Sachs Group, Inc.

**Basket Indices:** the Dow Jones Industrial Average<sup>®</sup> (Bloomberg ticker “INDU”), as published by Dow Jones & Company, Inc.; and Dow Jones Euro STOXX 50<sup>®</sup> Index (Bloomberg ticker “SX5E”), as published by STOXX Limited

**Specified currency:** U.S. dollars (“\$”)

**Face amount:** \$561,000 in the aggregate for all the offered notes, issued in minimum denominations of \$10,000 and integral multiples of \$1,000 in excess thereof

**Payment amount:** on the stated maturity date we will pay you, for each \$1,000 face amount of your notes, an amount in cash equal to the *sum* of the \$1,000 face amount *plus* the supplemental amount, if any

**Supplemental amount:**

- if the final basket level is *greater than* the initial basket level, the *product* of (1) the \$1,000 face amount *multiplied by* (2) the participation rate *multiplied by* (3) the basket return; and
- if the final basket level is *equal to* or *less than* the initial basket level, zero

**Initial basket level:** 100

**Final basket level:** the arithmetic average of the basket closing levels on each of the averaging dates

**Basket closing level:** the *sum* of the following: (1) the final index level for the Dow Jones Industrial Average<sup>®</sup> *divided by* the initial index level for the Dow Jones Industrial Average<sup>®</sup> *multiplied by* the initial weighted value for the

Dow Jones Industrial Average<sup>®</sup>; *plus* (2) the final index level for the Dow Jones Euro STOXX 50<sup>®</sup> Index *divided by* the initial index level for the Dow Jones Euro STOXX 50<sup>®</sup> Index *multiplied by* the initial weighted value for the Dow Jones Euro STOXX 50<sup>®</sup> Index

**Initial index level:** 10,282.41 with respect to the Dow Jones Industrial Average<sup>®</sup>; 2,730.57 with respect to the Dow Jones Euro STOXX 50<sup>®</sup> Index

**Final index level:** with respect to each basket index, the closing level of such basket index on each of the averaging dates, except in the limited circumstances described under “Specific Terms of Your Notes — Consequences of a Market Disruption Event or a Non-Trading Day” on page S-19 and subject to adjustment as provided under “Specific Terms of Your Notes — Discontinuance or Modification of a Basket Index” on page S-19

**Basket return:** the *quotient* of (1) the final basket level *minus* the initial basket level *divided by* (2) the initial basket level, expressed as a percentage

**Initial weight:** 50%, with respect to the Dow Jones Industrial Average<sup>®</sup>; and 50%, with respect to the Dow Jones Euro STOXX 50<sup>®</sup> Index

**Initial weighted value:** with respect to each basket index, the *product* of the initial weight of such basket index *times* the initial basket level

**Participation rate:** 100%

**Closing level:** as described under “Specific Terms of Your Notes — Special Calculation Provisions — Closing Level” on page S-21

**Trade date:** February 23, 2010

**Original issue date (settlement date):**

February 26, 2010

**Stated maturity date:** August 27, 2015, subject to adjustment as described under “Specific Terms of Your Notes — Payment of Principal on Stated Maturity Date — Stated Maturity Date” on page S-18

**Averaging dates:** August 23, 2010, February 23, 2011, August 23, 2011, February 23, 2012, August 23, 2012, February 25, 2013, August 23, 2013, February 24, 2014, and August 25, 2014, February 23, 2015 and August 24, 2015, in each case subject to adjustment as described under “Specific Terms of Your Notes — Payment of Principal on Stated Maturity Date — Averaging Dates” on page S-18. The determination date will be the last averaging date

**Determination date:** August 24, 2015, subject to adjustment as described under “Specific Terms of Your Notes — Payment of Principal on Stated Maturity Date — Averaging Dates” on page S-18

**Mandatory redemption:** if our status as an insured depository institution is terminated by the FDIC or us or as a result of our actions, we will redeem your notes then outstanding on the applicable mandatory redemption date as described under “Specific Terms of Your Notes — Mandatory Redemption” on page S-20

**Mandatory redemption date:** the tenth business day after the last business day on which any of our outstanding deposit obligations would be insured by the FDIC

**Mandatory redemption amount:** as described under “Specific Terms of Your Notes — Special Calculation Provisions — Mandatory Redemption Amount” on page S-22

**Optional redemption in the event of death or adjudication of incompetence:** as described under “Specific Terms of Your Notes — Optional Redemption in the Event of Death or Adjudication of Incompetence” on page S-20

**Calculation agent:** Goldman, Sachs & Co.

**Business day:** as described under “Specific Terms of Your Notes — Special Calculation Provisions — Business Day” on page S-20

**Trading day:** as described under “Specific Terms of Your Notes — Special Calculation Provisions — Trading Day” on page S-20

**No interest:** the offered notes do not bear interest

**No listing:** the offered notes will not be listed on any securities exchange or interdealer market quotation system

**No optional redemption:** the offered notes will not be subject to redemption or price dependent redemption at the option of the issuer

**No optional repayment:** the offered notes will not be subject to repayment at the option of the holder, except as described under “Specific Terms of Your Notes — Optional Redemption in the Event of Death or Adjudication of Incompetence” on page S-20

**Guarantee:** the offered notes are unconditionally and irrevocably guaranteed by The Goldman Sachs Group, Inc.

**Conflicts of interest:** Goldman, Sachs & Co. is an affiliate of Goldman Sachs Bank USA and The Goldman Sachs Group, Inc. and, as such, has a “conflict of interest” in this offering within the meaning of NASD Rule 2720. Consequently, the offering is being conducted in compliance with the provisions of Rule 2720. Goldman, Sachs & Co. is not permitted to sell notes in this offering to an account over which it exercises discretionary authority without the prior specific written approval of the account holder

**FDIC:** The notes are not guaranteed under the FDIC’s Temporary Liquidity Guarantee Program

**CUSIP no.:** 3814262J3

**ISIN no.:** US3814262J35

**ERISA:** as described under “Employee Retirement Income Security Act” on page 71 of the accompanying offering circular

## Q&A

### How do the Notes Work?

Your return on the notes at maturity will be based on the performance of an equally weighted basket of two equity indices, as measured from the trade date (February 23, 2010) to each of the averaging dates (August 23, 2010, February 23, 2011, August 23, 2011, February 23, 2012, August 23, 2012, February 25, 2013, August 23, 2013, February 24, 2014, August 25, 2014, February 23, 2015 and August 24, 2015). The determination date will be the last averaging date. Each basket index has the following initial weight within the basket: 50% for the Dow Jones Industrial Average<sup>®</sup> and 50% for the Dow Jones Euro STOXX 50<sup>®</sup> Index.

At maturity, for each \$1,000 face amount of your notes, we will pay you an amount in cash equal to the *sum* of the \$1,000 face amount *plus* the supplemental amount, if any. We will determine the supplemental amount by first calculating the percentage increase or decrease in the level of the basket, which we refer to as the basket return. The initial basket level is equal to 100. The final basket level will equal the arithmetic average of the basket closing levels on each of the averaging dates. The basket closing level will equal the *sum* of the following: (1) the final index level for the Dow Jones Industrial Average<sup>®</sup> *divided* by the initial index level for the Dow Jones Industrial Average<sup>®</sup> *multiplied* by the initial weighted value for the Dow Jones Industrial Average<sup>®</sup>; *plus* (2) the final index level for the Dow Jones Euro STOXX 50<sup>®</sup> Index *divided* by the initial index level for the Dow Jones Euro STOXX 50<sup>®</sup> Index *multiplied* by the initial weighted value for the Dow Jones Euro STOXX 50<sup>®</sup> Index. The final index level with respect to each of the basket indices on each averaging date is the closing level of the relevant basket index on such averaging date. We will then calculate the supplemental amount as follows:

- if the final basket level is *greater than* the initial basket level, the supplemental amount will equal the *product* of (1) the \$1,000 face amount *multiplied* by (2) the participation rate *multiplied* by (3) the basket return; or

- if the final basket level is *equal to or less than* the initial basket level, the supplemental amount will equal zero.

If the final basket level does not exceed the initial basket level, the amount in cash payable on your notes will be limited to the face amount of your notes. In addition, even if the final basket level exceeds the initial basket level, the return on your notes will be less than the return on a hypothetical investment in the basket.

The notes do not bear interest, and no other payments will be made to you prior to the stated maturity date. See “Additional Risk Factors Specific to Your Notes” on page S-9.

### Are the Notes Insured by the Federal Deposit Insurance Corporation and How Will the Notes Rank against Other Obligations of Goldman Sachs Bank USA?

The notes evidence deposit liabilities of Goldman Sachs Bank USA, which are covered, with respect to the face amount only, by FDIC insurance, up to a maximum limit of \$100,000 (\$250,000 through December 31, 2013) per individual or entity, or \$250,000 per participant in the case of certain retirement accounts, in all cases pursuant to the rules and regulations promulgated by the FDIC, and subject to the limitations and restrictions set forth therein. This maximum limit is the total protection available for funds in your notes, together with any other deposit accounts you may hold at Goldman Sachs Bank USA in the same title and capacity. In addition, the FDIC has taken the position that the supplemental amount, if any, and any secondary market premium paid by you above the face amount of the notes are not insured by the FDIC. In the event of a liquidation or other resolution of Goldman Sachs Bank USA, the claims of holders of the notes, although subordinated in rights to the claims of a receiver of Goldman Sachs Bank USA for administrative expenses, are entitled to priority over the claims of general unsecured non-depositor creditors of Goldman Sachs Bank USA. In addition, the notes will rank *pari passu* with all other deposit liabilities of Goldman Sachs Bank USA, including any notes of other series, except deposits which are required by law to be secured and subject to any statutory preference.

However, the ultimate determination of the insurability and priority of the notes would be made by the FDIC in response to claims of depositors. In addition, the availability of FDIC insurance to an owner of a beneficial interest in a global note representing book-entry notes may be dependent upon, among other things, whether such interest and any intermediary interests are accurately and adequately disclosed on the records of the depository, participants and persons that hold interests through participants. Accordingly, no assurance can be given as to the availability of FDIC insurance to owners of a beneficial interest in global notes.

For more information, see “Status of Deposit Notes” on page 4 of the accompanying offering circular and “Additional Risk Factors Specific to Your Notes” on page S-9.

#### **Who Should or Should Not Consider an Investment in the Notes?**

The notes are intended for investors who desire exposure to the potential increase in the level of an equally weighted basket consisting of the Dow Jones Industrial Average<sup>®</sup> and the Dow Jones Euro STOXX 50<sup>®</sup> Index. At maturity, investors may receive, in addition to the face amount of their notes, a supplemental amount, if any, which will be based on the performance of the basket. If the final basket level does not exceed the initial basket level, the supplemental amount will be zero, and you will receive only the face amount of your notes at maturity.

If the amount payable for each \$1,000 face amount of your notes on the stated maturity date is only the \$1,000 face amount or even if the amount payable exceeds the \$1,000 face amount of your notes, your overall return may be less than you would have earned by investing in a non-indexed bank deposit or debt security that bears interest at a prevailing market rate. Therefore, the notes may not be a suitable investment for you if you prefer the lower risk of fixed income investments with comparable maturities issued by companies with comparable credit ratings that pay regular interest payments at prevailing market rates. For more details, see “Additional Risk Factors Specific to Your Notes —Your Notes Do Not Bear Interest” on page S-9.

#### **What Will I Receive If I Sell the Notes Prior to the Stated Maturity Date?**

If you sell your notes prior to the stated maturity date, you will receive the market price for your notes. The market price for your notes may be influenced by many factors, such as the level of the basket indices, the volatility of the basket indices, interest rates and the time remaining until maturity. Depending on the impact of these factors, you may receive significantly less than the face amount of your notes in any sale of your notes before the stated maturity date. In addition, assuming no changes in market conditions or any other relevant factors, the market value of your notes on the trade date (as determined by reference to pricing models used by Goldman, Sachs & Co.) is, and the price you may receive for your notes may be, significantly less than the issue price. For more information on the value of your notes in the secondary market, see “Additional Risk Factors Specific to Your Notes — Assuming No Changes in Market Conditions or any Other Relevant Factors, the Market Value of Your Notes on the Trade Date (as Determined by Reference to Pricing Models Used by Goldman, Sachs & Co.) Is, and the Price You May Receive for Your Notes May Be, Significantly Less Than the Issue Price” on page S-9 and “— The Market Value of Your Notes May Be Influenced by Many Factors That Are Unpredictable and Interrelated in Complex Ways” on page S-10.

#### **Who Publishes the Basket Indices and What Do They Measure?**

Please see “The Basket Indices” on page S-34 for a description of each basket index and the index sponsors.

#### **What About Taxes?**

Some of the U.S. federal income tax consequences of an investment in your notes are summarized below, but we urge you to read the more detailed discussion in “Supplemental Discussion of United States Federal Income Tax Consequences” on page S-42. The notes will be treated as debt instruments subject to special rules governing contingent payment debt obligations for United States federal income tax purposes. If you are a U.S. individual or taxable entity, you generally will be required to pay taxes on ordinary income from the notes over their term based on the comparable yield for the notes,

even though you will not receive any payments from us until maturity. This comparable yield is determined solely to calculate the amount on which you will be taxed prior to maturity and is neither a prediction nor a guarantee of what the actual yield will be. In addition, any gain you may recognize on the sale or maturity of the notes will

be taxed as ordinary interest income. If you are a secondary purchaser of the notes, the tax consequences to you may be different.

For further discussion, see “Supplemental Discussion of United States Federal Income Tax Consequences” beginning on page S-42.

## TRUTH IN SAVINGS DISCLOSURE

### For the Initial Issuance and Sale of the Notes

#### Minimum Balance

Each note is issued in minimum denominations of \$10,000 and integral multiples of \$1,000 in excess thereof. If you acquire the notes as part of the initial offering of notes or directly from Goldman Sachs Bank USA, you will be required to pay 100% of the face amount of such notes. If you acquire the notes on the secondary market through a third party (including without limitation through Goldman, Sachs & Co.), you may be required to pay a secondary market premium in addition to 100% of the face amount of the notes, *plus* any applicable service charges imposed by the third party.

#### Maturity Date

The notes are scheduled to mature on August 27, 2015 (the “stated maturity date”), subject to adjustment if such day is not a business day or if any of the averaging dates are postponed, as described under “Specific Terms of Your Notes — Payment of Principal on Stated Maturity Date — Stated Maturity Date” and “— Averaging Dates” on page S-18 and “Specific Terms of Your Notes — Special Calculation Provisions — Business Day” on page S-20.

#### No Renewal and No Interest

The notes will not renew on the stated maturity date. No interest will be paid on the notes, whether before or after the stated maturity date. Unless we redeem your notes as described under “— Mandatory Redemption” or under “— Optional Redemption in the Event of Death or Adjudication of Incompetence” below, we will exchange your notes on the stated maturity date for an amount in cash equal to the face amount of the notes *plus* any applicable supplemental amount, as described in more detail in this offering circular supplement. Payment will be made to the holders of the notes based on the books that we or the fiscal agent maintain for this purpose. See also “Legal Ownership and Book-Entry Issuance” on page 48 of the accompanying offering circular.

#### Supplemental Amount

You may be entitled to receive a supplemental amount in addition to the face

amount of your notes on the stated maturity date, as described in this offering circular supplement.

Please see “Summary Information — Key Terms” on page S-2 for important information about how the supplemental amount, if any, payable on the stated maturity date (in addition to the face amount of the notes) will be determined, including (for example) information about the initial index level with respect to each basket index, the participation rate, and the averaging dates. Please also see “Specific Terms of Your Notes — Payment of Principal on Stated Maturity Date — Supplemental Amount” and “— Averaging Dates” on page S-18 for more information regarding the supplemental amount and the averaging dates.

If the maturity of the notes is accelerated due to a default, no supplemental amount will be paid. In addition, no supplemental amount will be paid if there is a mandatory redemption or any early redemption due to death or adjudication of incompetence. See “— Mandatory Redemption” and “— Optional Redemption in the Event of Death or Adjudication of Incompetence” below.

#### Default Amount

If the maturity of the notes is accelerated due to a default, you may be entitled to receive a default amount, as described in more detail in “Specific Terms of Your Notes — Special Calculation Provisions — Default Amount” on page S-21. Acceleration of the maturity of the notes and payment of the default amount is subject to the ability of the FDIC to enforce the terms of the notes, notwithstanding any such acceleration provision, if the FDIC is appointed conservator or receiver of Goldman Sachs Bank USA.

#### Mandatory Redemption

If our status as an insured depository institution is terminated by the FDIC or us or as a result of our actions, we will redeem your notes then outstanding on the applicable mandatory redemption date as described under “Specific Terms of Your Notes — Mandatory Redemption” on page S-20. The mandatory redemption amount for your notes then outstanding on the applicable mandatory redemption date will not be less than the face amount of your notes then

outstanding. However, there will be no mandatory redemption if the mandatory redemption date occurs on or after the stated maturity date.

#### **Optional Redemption in the Event of Death or Adjudication of Incompetence**

If you die or are adjudicated to be incompetent by a court or other administrative body of competent jurisdiction, your authorized representative will have the option to redeem your notes for their face value before (not on or after) the stated maturity date. No supplemental amount will be paid in connection with any such early redemption.

#### **Transaction Limitations**

You cannot change (increase or decrease) the face amount of a note. If you want to increase the total amount of notes you own, you must acquire new notes. There is no assurance that we will sell any additional notes subsequent to the date of this offering circular supplement.

You may not withdraw or redeem any portion of the face amount of your notes before the stated maturity date (or before any accelerated maturity, if there is a default on the note). Unless the notes are mandatorily redeemed by us as described under “— Mandatory Redemption” above or the notes are redeemed by your authorized representative in the event of your death or adjudication of incompetence as described under “— Optional Redemption in the Event of Death or Adjudication of Incompetence” above, Goldman Sachs Bank USA is not required (and does not intend) to make any payment on the notes before the stated maturity date (or before any accelerated maturity, if there is a default on the notes). Except as

specifically described in the preceding sentence, the notes will not be subject to redemption or price dependent redemption at our option or repayment at your option before the stated maturity date.

#### **Selling the Notes before the Stated Maturity Date**

If you want to receive funds before the stated maturity date for notes that you have acquired, you may be required to sell the notes in the secondary market. Neither Goldman Sachs Bank USA nor Goldman, Sachs & Co. is required (and does not intend) to repurchase any note before the stated maturity date, and is not required to assist you in finding a third party willing to purchase the notes from you before the stated maturity date. If you sell your notes before the stated maturity date, you will receive the market price at that time for the notes. The market price for your notes could be significantly less than the face amount of the notes, and could be significantly less than what you paid to acquire your notes. Furthermore, if you sell your notes, you will likely be charged a commission for secondary market transactions, or the price will likely reflect a dealer discount.

#### **Additional Information**

Please see the other sections of this offering circular supplement and the accompanying offering circular for important additional information about the notes.

For more information relating to these disclosures, please contact Goldman, Sachs & Co. at 1-866-734-0425.

## ADDITIONAL RISK FACTORS SPECIFIC TO YOUR NOTES

*An investment in your notes is subject to the risks described below, as well as the risks described under "Considerations Relating to Indexed Notes" in the accompanying offering circular dated May 29, 2009. Your notes are a riskier investment than many other bank deposit obligations. Also, your notes are not equivalent to investing directly in the index stocks, i.e., the stocks comprising the basket indices that comprise the basket to which your notes are linked. You should carefully consider whether the offered notes are suited to your particular circumstances.*

### **Assuming No Changes in Market Conditions or any Other Relevant Factors, the Market Value of Your Notes on the Trade Date (as Determined by Reference to Pricing Models Used by Goldman, Sachs & Co.) Is, and the Price You May Receive for Your Notes May Be, Significantly Less Than the Issue Price**

The price at which Goldman, Sachs & Co. would initially buy or sell notes (if Goldman, Sachs & Co. makes a market) and the value that Goldman, Sachs & Co. will initially use for account statements and otherwise will significantly exceed the value of your notes using such pricing models. The amount of the excess will decline on a straight line basis over the period from the trade date through June 23, 2010. After June 23, 2010, the price at which Goldman, Sachs & Co. would buy or sell notes will reflect the value determined by reference to the pricing models, plus our customary bid and asked spread.

In addition to the factors discussed above, the value or quoted price of your notes at any time, however, will reflect many factors and cannot be predicted. If Goldman, Sachs & Co. makes a market in the notes, the price quoted by Goldman, Sachs & Co. would reflect any changes in market conditions and other relevant factors, including a deterioration in our creditworthiness or perceived creditworthiness whether measured by our credit rating or other credit measures. These changes may adversely affect the market price of your notes, including the price you may receive for your notes in any market making transaction. The quoted price (and the value of your notes that Goldman, Sachs & Co. will use for account statements or otherwise) could be higher or lower than the original issue price, and may be higher or lower than the value of your notes as determined by reference to pricing models used by Goldman, Sachs & Co.

If at any time a third party dealer quotes a price to purchase your notes or otherwise values your notes, that price may be significantly different

(higher or lower) than any price quoted by Goldman, Sachs & Co. You should read "— The Market Value of Your Notes May Be Influenced by Many Factors That Are Unpredictable and Interrelated in Complex Ways" below.

Furthermore, if you sell your notes, you will likely be charged a commission for secondary market transactions, or the price will likely reflect a dealer discount.

There is no assurance that Goldman, Sachs & Co. or any other party will be willing to purchase your notes and, in this regard, Goldman, Sachs & Co. is not obligated to make a market in the notes. See "— Your Notes May Not Have an Active Trading Market" below.

### **The Notes Differ from Conventional Bank Deposits**

The notes combine features of equity and debt. The terms of the notes differ from those of conventional non-indexed bank deposits in that we will not pay regular interest. Therefore, the return on your investment in the notes may be less than the amount that would be paid on a conventional non-indexed bank deposit. The return at maturity of only the \$1,000 face amount *plus* the supplemental amount, if any, of each \$1,000 face amount of a note will not compensate you for any loss in value due to inflation and other factors relating to the value of money over time.

The market price of your notes prior to the stated maturity date may be significantly lower than the purchase price you pay for your notes. Consequently, if you sell your notes before the stated maturity date, you may receive far less than the amount of your investment in the notes.

### **Your Notes Do Not Bear Interest**

You will not receive any interest payments on your notes. As a result, even if the amount payable for each of your notes on the stated

maturity date exceeds the face amount of your notes, the overall return you earn on your notes may be less than you would have earned by investing in a non-indexed bank deposit or debt security of comparable maturity that bears interest at a prevailing market rate.

#### **The Lower Performance of One Basket Index May Offset an Increase in the Other Basket Index**

The basket is comprised of two equity indices, which are equally weighted. Declines in the level of one basket index may offset increases in the level of the other basket index. As a result, the return on the basket — and thus on your notes — may be reduced or eliminated, which will have the effect of reducing the supplemental amount, if any, in respect of your notes at maturity.

#### **The Payment Amount on Your Notes Will Not Be Affected by the Closing Level of Each Basket Index on Any Days Other Than the Averaging Dates**

The supplemental amount, if any, that will be paid on your notes will be determined based on the basket closing levels on each of the averaging dates. Although the actual basket closing level on the stated maturity date or at other times during the life of your notes may be higher than the final basket closing level, you will not benefit from the basket closing levels at any time other than on each of the averaging dates.

#### **The Payment Amount on Your Notes Is Linked to the Closing Levels of the Basket Indices on Several Averaging Dates**

The basket return will be based on the arithmetic average of the basket closing levels on each of the averaging dates (each of which is subject to postponement in case of market disruption events or non-trading days), which occur every six months over the life of your notes, and therefore not the simple performance of the basket of indices over the life of your notes. For example, if the closing level of a particular index dramatically surged on the last averaging date (in other words, the determination date), the payment amount for your notes may be significantly less than it would have been had the payment amount been linked only to the closing level of the index on that last averaging date.

#### **Your Notes May Not Have an Active Trading Market**

Your notes will not be listed or displayed on any securities exchange or included in any interdealer market quotation system, and as a result there may be little or no secondary market for your notes. Even if a secondary market for your notes develops, it may not provide significant liquidity and we expect that transaction costs in any secondary market would be high. As a result, the difference between bid and asked prices for your notes in any secondary market could be substantial.

#### **The Market Value of Your Notes May Be Influenced by Many Factors That Are Unpredictable and Interrelated in Complex Ways**

The following factors, among others, many of which are beyond our control, may influence the market value of your notes:

- the volatility – i.e., the frequency and magnitude of changes in the level of the basket indices;
- the level of the basket indices to which your notes are linked, the participation rate and the initial index level of each basket index;
- the dividend rates of the stocks underlying the basket indices;
- economic, financial, regulatory, political, military and other events that affect stock markets generally and the stocks underlying the basket indices, and which may affect the closing levels of the basket indices;
- interest rates and yield rates in the market;
- the time remaining until your notes mature; and
- our creditworthiness, whether actual or perceived, and including actual or anticipated upgrades or downgrades in our credit ratings or changes in other credit measures.

These factors may influence the market value of your notes if you sell your notes before maturity, including the price you may receive for your notes in any market making transaction. If

you sell your notes prior to maturity, you may receive less than the face amount of your notes.

You cannot predict the future performance of the basket indices based on their historical performance. The actual performance of the basket indices over the life of the notes, as well as the amount payable on the stated maturity date, may bear little or no relation to the historical levels of the basket indices or to the hypothetical return examples shown elsewhere in this offering circular supplement.

**If the Levels of the Basket Indices Change, the Market Value of Your Notes May Not Change in the Same Manner**

Your notes may trade quite differently from the performance of the basket indices. Changes in the levels of the basket indices may not result in a comparable change in the market value of your notes. We discuss some of the reasons for this disparity under “— The Market Value of Your Notes May Be Influenced by Many Factors That Are Unpredictable and Interrelated in Complex Ways” above.

**The Return on Your Notes Will Not Reflect Any Dividends Paid on Index Stocks**

Each index sponsor calculates the level of the applicable basket index by reference to the prices of the stocks included in the applicable basket index, without taking account of the value of dividends paid on those stocks. Therefore, the return on your notes will not reflect the return you would realize if you actually owned the stocks included in each basket index and received the dividends paid on those stocks. You will not receive any dividends that may be paid on any of the index stocks by the index stock issuers. See “— You Have No Shareholder Rights or Rights to Receive Any Stock” below for additional information.

**You Have No Shareholder Rights or Rights to Receive Any Stock**

Investing in your notes will not make you a holder of any of the stocks underlying the basket indices. Neither you nor any other holder or owner of your notes will have any voting rights, any right to receive dividends or other distributions or any other rights with respect to such stocks. Your notes will be paid in cash, and you will have no right to receive delivery of any such stocks.

**Trading and Other Transactions by Goldman Sachs in Instruments Linked to the Basket Indices, the Currencies They Are Denominated in or the Index Stocks Underlying the Basket Indices May Impair the Value of Your Notes**

As we describe under “Use of Proceeds and Hedging” on page S-33, we, through Goldman, Sachs & Co. or one or more of our other affiliates, have hedged or expect to hedge our obligations under the notes by purchasing futures and/or other instruments linked to the basket indices. We also have adjusted or expect to adjust our hedge by, among other things, purchasing or selling any of the foregoing, and perhaps other instruments linked to the basket indices, or the stocks underlying the basket indices, which we refer to as index stocks, at any time and from time to time, and to unwind the hedge by selling any of the foregoing on or before any averaging date for your notes. We may also enter into, adjust and unwind hedging transactions relating to other deposit notes whose returns are linked to changes in the level of the basket indices, or the index stocks, as applicable. Any of these hedging activities may adversely affect the levels of the basket indices — directly or indirectly by affecting the price of the index stocks and therefore the market value of your notes and the amount we will pay on your notes at maturity. It is possible that we, through our affiliates, could receive substantial returns with respect to our hedging activities while the value of your notes may decline. See “Use of Proceeds and Hedging” on page S-33 for a further discussion of transactions in which we or one or more of our affiliates may engage.

Goldman, Sachs & Co. and our other affiliates may also engage in trading in instruments whose returns are linked to the basket indices, or index stocks for their proprietary accounts, for other accounts under their management or to facilitate transactions, including block transactions, on behalf of customers. Any of these activities of Goldman, Sachs & Co. or our other affiliates could adversely affect the level of the basket indices — directly or indirectly by affecting the price of the index stocks — and therefore, the market value of your notes and the amount we will pay on your notes at maturity. We may also issue, and Goldman, Sachs & Co. and our other affiliates may also issue or underwrite, other securities or financial or derivative instruments with returns linked to changes in the level of the basket indices, or one or more of the

index stocks, as applicable. By introducing competing products into the marketplace in this manner, we or our affiliates could adversely affect the market value of your notes and the amount we will pay on your notes at maturity.

### **An Investment in the Notes Is Subject to Risks Associated with Foreign Securities Markets**

One of the basket indices to which your notes are linked, the Dow Jones Euro STOXX 50<sup>®</sup> Index, is in turn linked to the value of foreign equity securities. The Dow Jones Euro STOXX 50<sup>®</sup> Index covers 50 stocks from 12 Eurozone countries (Austria, Belgium, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal and Spain)(the “Eurozone countries”), which are traded in the equity markets of such countries. You should be aware that investments in securities linked to the value of foreign equity securities involve particular risks. The foreign securities markets comprising the Dow Jones Euro STOXX 50<sup>®</sup> Index may have less liquidity and may be more volatile than U.S. or other securities markets and market developments may affect foreign markets differently from U.S. or other securities markets. Direct or indirect government intervention to stabilize these foreign securities markets, as well as cross-shareholdings in foreign companies, may affect trading prices and volumes in these markets. Also, there is generally less publicly available information about foreign companies than about those U.S. companies that are subject to the reporting requirements of the U.S. Securities and Exchange Commission, and foreign companies are subject to accounting, auditing and financial reporting standards and requirements that differ from those applicable to U.S. reporting companies.

Securities prices in foreign countries are subject to political, economic, financial and social factors that apply in those geographical regions. These factors, which could negatively affect those securities markets, include the possibility of recent or future changes in a foreign government’s economic and fiscal policies, the possible imposition of, or changes in, currency exchange laws or other laws or restrictions applicable to foreign companies or investments in foreign equity securities and the possibility of fluctuations in the rate of exchange between currencies, the possibility of outbreaks of hostility and political instability and the possibility of natural disaster or adverse public health development in the region.

Moreover, foreign economies may differ favorably or unfavorably from the U.S. economy in important respects such as growth of gross national product, rate of inflation, capital reinvestment, resources and self-sufficiency.

### **Although Your Notes Are Linked to the Dow Jones Euro STOXX 50<sup>®</sup> Index Whose Index Stocks are Traded in Foreign Currency, The Return on Your Notes Will Depend on Changes in the Final Basket Level and Will Not Be Adjusted for Changes in the Foreign Currency Exchange Rate**

Your notes are linked to the Dow Jones Euro STOXX 50<sup>®</sup> Index whose index stocks are traded in foreign currency. Although the index stocks are traded in foreign currency and your notes will be denominated in U.S. dollars, the amount payable on your notes at maturity will not be adjusted for changes in the foreign currency/U.S. dollar exchange rates. The amount payable on the stated maturity date will be based solely upon the overall change in the level of the basket indices over the life of your notes. Changes in foreign currency exchange rates, however, may reflect changes in the economies of the Eurozone countries that, in turn, may affect the final basket level.

### **Our Business Activities May Create Conflicts of Interest between Your Interests in the Notes and Us**

As we have noted above, Goldman, Sachs & Co. and our other affiliates owned or expect to own securities of, and have engaged or expect to engage in trading activities related to the basket indices, or index stocks that are not for your account or on your behalf. These trading activities may present a conflict between your interest in the notes and the interests Goldman, Sachs & Co. and our other affiliates will have in their proprietary accounts, in facilitating transactions, including block trades, for their customers and in accounts under their management. These trading activities, if they influence the levels of the basket indices, could be adverse to your interests as a beneficial owner of your notes.

Goldman, Sachs & Co. and our other affiliates may, at present or in the future, engage in business with the sponsors of the basket indices to which your notes may be linked or with

the issuers of the index stocks, including making loans to or equity investments in those companies or providing advisory services to those companies. These services could include merger and acquisition advisory services. These activities may present a conflict between the obligations of Goldman, Sachs & Co. or another affiliate of Goldman Sachs and your interests as a beneficial owner of the notes. Moreover, one or more of our affiliates have published and, in the future, expect to publish research reports with respect to some or all of the issuers of the index stocks and with respect to the basket indices, to which your notes are linked. Any of these activities by any of our affiliates may affect the levels of the basket indices and, therefore, the market value of your notes and the amount we will pay on your notes at maturity.

**The Calculation Agent Will Have the Authority to Make Determinations That Could Affect the Market Value of Your Notes, When Your Notes Mature and the Amount You Receive, If Any, at Maturity**

As of the date of this offering circular supplement, we have appointed Goldman, Sachs & Co. as the calculation agent for your notes. As calculation agent for your notes, Goldman, Sachs & Co. will make all determinations regarding the final basket level; the basket closing levels; the basket return; the final index level for each basket index; the closing level of each basket index; market disruption events; successor indices; the averaging dates; the determination date; the stated maturity date; mandatory redemption date; business day and trading day; the default amount; mandatory redemption amount; supplemental amount and the amount payable on your notes; and any other determination as applicable or specified herein. The calculation agent also has discretion in making certain adjustments relating to a discontinuation or modification of a basket index. The exercise of this discretion by Goldman, Sachs & Co. could adversely affect the value of your notes and may present Goldman, Sachs & Co. with a conflict of interest of the kind described under “— Our Business Activities May Create Conflicts of Interest between Your Interests in the Notes and Us” above. We may change the calculation agent at any time without notice, and Goldman, Sachs & Co. may resign as calculation agent at any time upon 60 days’ written notice to Goldman Sachs Bank USA.

**The Policies of the Applicable Index Sponsor and Changes that Affect an Index to Which Your Notes are Linked, or Index Stocks Underlying Such Indices, Could Affect the Amount Payable on Your Notes and Their Market Value**

The policies of the applicable index sponsor concerning the calculation of the level of the applicable basket index, additions, deletions or substitutions of the index stocks underlying such indices, and the manner in which changes affecting the index stocks or their issuers, such as stock dividends, reorganizations or mergers, are reflected in the index level, could affect the level of the applicable basket index and, therefore, the amount payable on your notes on the stated maturity date and the market value of your notes before that date. The amount payable on your notes and their market value could also be affected if the applicable index sponsor changes these policies, for example, by changing the manner in which it calculates the level of the applicable basket index, or if any index sponsor discontinues or suspends calculation or publication of the level of the applicable basket index, in which case it may become difficult to determine the market value of your notes. If events such as these occur on any averaging date, the calculation agent — which initially will be Goldman, Sachs & Co., our affiliate — may determine the closing level for the applicable basket index on the applicable averaging date — and thus the amount payable on the stated maturity date — in a manner it considers appropriate, in its sole discretion. We describe the discretion that the calculation agent will have in determining the index levels on each of the averaging dates and the amount payable on your notes more fully under “Specific Terms of Your Notes — Discontinuance or Modification of a Basket Index” on page S-19 and “Specific Terms of Your Notes — Role of Calculation Agent” on page S-20.

**The Calculation Agent Can Postpone Any Averaging Date If a Market Disruption Event or Non-Trading Day Occurs or Is Continuing**

If the calculation agent determines that, on a day that would otherwise be an averaging date, a market disruption event with respect to either basket index has occurred or is continuing or if such date is not a trading day for such basket index, the applicable averaging date for such basket index will be postponed until the first

following trading day on which no market disruption event occurs or is continuing, subject to limitation on postponement described under “Specific Terms of Your Notes — Payment of Principal on Stated Maturity Date — Averaging Dates” on page S-18. If any averaging date with respect to a basket index is postponed to the last possible day and a market disruption event with respect to such basket index occurs or is continuing on such last possible day or such day is not a trading day with respect to such basket index, such day will nevertheless be the applicable averaging date with respect to such basket index. Notwithstanding the foregoing, the determination date will occur on the latest of the last averaging dates with respect to the basket indices.

As a result of any of the foregoing, the stated maturity date for your notes will also be postponed, as described under “Specific Terms of Your Notes — Payment of Principal on Stated Maturity Date — Stated Maturity Date” on page S-18. In such a case, you may not receive the cash payment, if any, that we are obligated to deliver on the stated maturity date until several days after the originally scheduled stated maturity date. Moreover, if the closing level of either basket index is not available on any averaging date because of a market disruption event, a non-trading day or for any other reason (except as described under “Specific Terms of Your Notes — Discontinuance or Modification of a Basket Index” on page S-19), in certain circumstances the calculation agent will determine the final index level for such basket index, based on its assessment, made in its sole discretion, of the closing level of such basket index, as described under “Specific Terms of Your Notes — Consequences of a Market Disruption Event or a Non-Trading Day” on page S-19.

**There Is No Affiliation between the Index Stock Issuers or the Index Sponsors and Us, and We Are Not Responsible For Any Disclosure by the Index Stock Issuers**

Goldman Sachs is not affiliated with the issuers of the index stocks or the index sponsors. As we have told you above, however, we or our affiliates may currently or from time to time in the future own securities of, or engage in business with the applicable index sponsor or the index stock issuers. Nevertheless, neither we nor any of our affiliates assumes any responsibility for the accuracy or the completeness of any information

about the basket indices and the index stock issuers. You, as an investor in your notes, should make your own investigation into the indices and the index stock issuers. See “The Basket Indices” on page S-34 for additional information about the basket indices to which your notes are linked.

Neither the index sponsors nor the index stock issuers are involved in the offering of your notes in any way and none of them have any obligation of any sort with respect to your notes. Thus, neither the index sponsors nor the index stock issuers have any obligation to take your interests into consideration for any reason, including in taking any corporate actions that might affect the market value of your notes.

**The Full Face Amount of Your Notes and the Supplemental Amount, If Any, May Not Be Protected by FDIC Insurance**

The notes evidence deposit liabilities of Goldman Sachs Bank USA, which are covered, with respect to the face amount only, by FDIC insurance, up to a maximum limit of \$100,000 (\$250,000 through December 31, 2013) per individual or entity, or \$250,000 per participant in the case of certain retirement accounts, in all cases pursuant to the rules and regulations promulgated by the FDIC, and subject to the limitations and restrictions set forth therein. This maximum limit is the total protection available for your notes, together with any other deposit accounts you may hold at Goldman Sachs Bank USA in the same title and capacity. As a result, the full face amount of your notes may not be protected by FDIC insurance.

Although FDIC insurance coverage includes both principal and any accrued interest to the date of default of Goldman Sachs Bank USA, if the FDIC was appointed conservator or receiver of Goldman Sachs Bank USA prior to the maturity of the notes, the FDIC has taken the position that any supplemental amount between the date of deposit and the date the FDIC was appointed receiver or conservator is not insured because such supplemental amount is not calculated until the maturity of the notes and would not be reflected as accrued interest on the books of Goldman Sachs Bank USA at the time of such appointment. Although the notes provide for the acceleration of the maturity of the notes upon certain events of insolvency of Goldman Sachs Bank USA, the FDIC may enforce the original terms of the notes notwithstanding any such

acceleration provision. Any amounts payable on a note upon any acceleration of maturity, to the extent such payments exceed the face amount of such note, will not be covered by FDIC insurance. Thus, the amount insured by the FDIC with respect to the notes may be substantially less than the amount that would otherwise be payable on the notes at maturity (and could be less than the applicable FDIC insurance limits). In addition, the FDIC takes the position that any secondary market premium paid by you above the face amount of the notes is not insured by the FDIC. **If you sell your notes prior to maturity, FDIC insurance will not cover any resulting losses.**

**To the Extent Payments under the Notes Are Not Insured by the FDIC, You Can Depend Only on The Goldman Sachs Group, Inc.'s and Our Creditworthiness for Payment on the Notes**

The notes are our obligations, unconditionally and irrevocably guaranteed by The Goldman Sachs Group, Inc. pursuant to the guarantee. Except to the extent FDIC insurance is available from the FDIC, no entity other than Goldman Sachs Bank USA (or its receiver or conservator, if applicable, to the extent of any available remaining assets of Goldman Sachs Bank USA) or The Goldman Sachs Group, Inc. will have any obligation, contingent or otherwise, to make any payments in respect of the notes. Accordingly, we and The Goldman Sachs Group, Inc. will be dependent on our and The Goldman Sachs Group, Inc.'s respective assets and earnings to generate the funds necessary to meet our and The Goldman Sachs Group, Inc.'s respective obligations with respect to the notes. If our and The Goldman Sachs Group, Inc.'s assets and earnings are not adequate, we and The Goldman Sachs Group, Inc. may be unable to make payments in respect of the notes and you could lose that part of your deposit, if any, that is not covered by FDIC insurance.

In the event of a liquidation or other resolution of Goldman Sachs Bank USA and the FDIC makes payment on the notes under FDIC insurance, the FDIC will be subrogated to all rights of holders of the notes against Goldman Sachs Bank USA, including their rights against The Goldman Sachs Group, Inc. under the guarantee agreement, to the extent of such payment.

**Status as Uninsured Deposits Could Reduce Your Recovery of Principal Deposited and/or Adversely Affect Your Return**

If the FDIC were appointed as conservator or receiver of Goldman Sachs Bank USA, the amount actually paid by the FDIC in this capacity on the claims of holders of the notes in excess of the amount insured by the FDIC and paid under FDIC insurance would depend upon, among other factors, the amount of conservatorship or receivership assets available for the payment of claims of deposit liabilities.

The FDIC as conservator or receiver may also transfer to another insured depository institution any of the insolvent institution's assets and liabilities, including deposit liabilities such as the notes (or only the insured portion thereof), without the approval or consent of the beneficial owners of the notes. The transferee depository institution would be permitted to offer beneficial owners of the notes (or the insured portion thereof so transferred) the choice of (i) repayment of the principal amount so transferred or (ii) substitute terms which may be less favorable. If a note is paid off prior to its stated maturity date, either by a transferee depository institution or the FDIC, its beneficial owner may not be able to reinvest the funds at the same rate of return as the rate on the original note.

As with all deposits, if it becomes necessary for FDIC insurance payments to be made on the notes, there is no specific time period during which the FDIC must make insurance payments available. Accordingly, in such an event, you should be prepared for the possibility of an indeterminate delay in obtaining insurance payments.

Except to the extent insured by the FDIC and unconditionally and irrevocably guaranteed by The Goldman Sachs Group, Inc. as described in this offering circular supplement and the accompanying offering circular, the notes are not otherwise insured by any governmental agency or instrumentality or any other person.

**You Will Not Have the Right to Withdraw the Face Amount of Your Notes Prior to the Stated Maturity Date**

When you purchase the notes, you agree with Goldman Sachs Bank USA to keep your funds on deposit for the term of the notes. You will

not have the right to withdraw any portion of the face amount of your notes prior to the stated maturity date. Therefore, you should not rely on the possibility of early withdrawal for gaining access to your funds prior to the stated maturity date.

In the event of your death or adjudication of incompetence, your authorized representative will have the option to redeem the notes before (not on or after) the stated maturity date at an amount equal to the face amount of the notes. For further discussion, see “Specific Terms of Your Notes — Optional Redemption in the Event of Death or Adjudication of Incompetence” on page S-20.

#### **Your Notes May Be Subject to Mandatory Redemption**

In the event our status as an insured depository institution is terminated by the FDIC or us or as a result of our actions, we will redeem your notes in full as described under “Specific Terms of Your Notes — Mandatory Redemption” on page S-20. The payment amount you receive upon such redemption due to the termination of FDIC insurance may be less than the amount you would have otherwise received on the stated maturity date.

#### **Your Notes Will Be Treated as Debt Instruments Subject to Special Rules Governing Contingent Payment Debt Obligations**

The notes will be treated as debt instruments subject to special rules governing contingent payment debt obligations for United States federal income tax purposes. If you are a U.S. individual or taxable entity, you generally will be required to pay taxes on ordinary income from the notes over their term based on the comparable yield for the notes, even though you will not receive any payments from us until maturity. This comparable yield is determined solely to calculate the amount on which you will be taxed prior to maturity and is neither a prediction nor a guarantee of what the

actual yield will be. In addition, any gain you may recognize on the sale or maturity of the notes will be taxed as ordinary interest income. If you are a secondary purchaser of the notes, the tax consequences to you may be different.

For further discussion, see “Supplemental Discussion of United States Federal Income Tax Consequences” beginning on page S-42.

**If you are a non-U.S. investor, please also read the section of this offering circular supplement called “Supplemental Discussion of United States Federal Income Tax Consequences”.**

**You are urged to consult your own tax advisors regarding all aspects of the U.S. federal income tax consequences of investing in the notes as well as any tax consequences arising under the laws of any state, local or foreign taxing jurisdiction.**

#### **Certain Considerations for Insurance Companies and Employee Benefit Plans**

Any insurance company or fiduciary of a pension plan or other employee benefit plan that is subject to the prohibited transaction rules of the Employee Retirement Income Security Act of 1974, as amended, which we call “ERISA”, or the Internal Revenue Code of 1986, as amended, including an IRA or a Keogh plan (or a governmental plan to which similar prohibitions apply), and that is considering purchasing the notes with the assets of the insurance company or the assets of such a plan, should consult with its counsel regarding whether the purchase or holding of the notes could become a “prohibited transaction” under ERISA, the Internal Revenue Code or any substantially similar prohibition in light of the representations a purchaser or holder in any of the above categories is deemed to make by purchasing and holding the notes. This is discussed in more detail under “Employee Retirement Income Security Act” on page 71 of the accompanying offering circular.

## SPECIFIC TERMS OF YOUR NOTES

*Please note that in this section entitled “Specific Terms of Your Notes”, references to “holders” mean those who own notes registered in their own names, on the books that we or the fiscal agent maintain for this purpose, and not those who own beneficial interests in notes registered in street name or in notes issued in book-entry form through The Depository Trust Company (“DTC”). Please review the special considerations that apply to owners of beneficial interests in the accompanying offering circular, under “Legal Ownership and Book-Entry Issuance”.*

The offered notes are a separate series of deposit instruments, entitled “Deposit Notes”, that we may issue under the fiscal agency agreement from time to time as described in the accompanying offering circular. The offered notes are also “indexed notes”, as defined in the accompanying offering circular.

The payment of principal of, and any interest and premium on, and any other amounts, if any, payable under the offered notes will be unconditionally and irrevocably guaranteed by The Goldman Sachs Group, Inc. The guarantee will remain in effect until the entire principal of, and interest and premium, if any, on, and any other amounts, if any, payable under the offered notes has been paid in full or discharged in accordance with the provisions of the fiscal agency agreement.

This offering circular supplement summarizes specific financial and other terms that apply to the offered notes, including your notes; terms that apply generally to all deposit notes are described in “Description of Notes We May Offer” in the accompanying offering circular. The terms described here supplement those described in the accompanying offering circular and, if the terms described here are inconsistent with those described there, the terms described here are controlling.

In addition to those terms described on the cover page and under “Summary Information” of this offering circular supplement, the following terms will apply to your notes:

### **No interest**

We will not pay interest on your notes.

### **Specified currency**

U.S. dollars (“\$”)

### **Form of note**

- global form only: yes, at DTC

- non-global form available: no

### **Denominations**

Each note registered in the name of a holder must have a face amount of \$10,000 and any integral multiples of \$1,000 in excess thereof.

### **No Listing**

Your notes will not be listed or displayed on any securities exchange or included in any interdealer market quotation system.

### **Default Amount, Other Terms**

The following will apply to your notes:

- the default amount will be payable on any acceleration of the maturity of your notes as described under “— Special Calculation Provisions” below;
- a business day for your notes will have the meaning described under “— Special Calculation Provisions” below; and
- a trading day for your notes will have the meaning described under “— Special Calculation Provisions” below.

Please note that the information about the settlement date or trade date, issue price, discounts or commissions and net proceeds to Goldman Sachs Bank USA on the front cover page or elsewhere in this offering circular supplement relates only to the initial issuance and sale of the notes. If you have purchased your notes in a market-making transaction after the initial issuance and sale of the notes, any such relevant information about the sale to you will be provided in a separate confirmation of sale.

We describe the terms of your notes in more detail below.

## **Basket Indices, Index Sponsors, Component Indices and Index Stocks**

In this offering circular supplement, when we refer to the basket indices, we mean the Dow Jones Industrial Average<sup>®</sup> and the Dow Jones Euro STOXX 50<sup>®</sup> Index, or any successor indices as they may be modified, replaced or adjusted from time to time as described under “— Discontinuance or Modification of a Basket Index” below. When we refer to the index sponsors as of any time, we mean the entities, including any successor sponsors, that determine and publish the Dow Jones Industrial Average<sup>®</sup> or the Dow Jones Euro STOXX 50<sup>®</sup> Index as then in effect. When we refer to the index stocks as of any time, we mean the stocks that underlie the Dow Jones Industrial Average<sup>®</sup> or the stocks that underlie the Dow Jones Euro STOXX 50<sup>®</sup> Index, as then in effect, after giving effect to any additions, deletions or substitutions.

## **Payment of Principal on Stated Maturity Date**

Unless we redeem your notes as described under “— Mandatory Redemption” below, on the stated maturity date, we will exchange each \$1,000 face amount of your notes for an amount in cash equal to the *sum* of the \$1,000 face amount of your notes *plus* the supplemental amount, if any. You will receive at least the face amount of your notes at maturity.

## **Supplemental Amount**

The supplemental amount will equal:

- if the final basket level is *greater than* the initial basket level, the *product* of (1) the \$1,000 face amount *multiplied by* (2) the participation rate *multiplied by* (3) the basket return; and
- if the final basket level is *equal to or less than* the initial basket level, zero.

The initial basket level is equal to 100. The final basket level will equal the arithmetic average of the basket closing levels on each of the averaging dates. The basket closing level will equal the *sum* of the following: (1) the final index level for the Dow Jones Industrial Average<sup>®</sup> *divided by* the initial index level for the Dow Jones Industrial Average<sup>®</sup> *multiplied by* the initial weighted value for the Dow Jones Industrial Average<sup>®</sup>; *plus* (2) the final index level for the Dow Jones Euro STOXX 50<sup>®</sup> Index *divided by*

the initial index level for the Dow Jones Euro STOXX 50<sup>®</sup> Index *multiplied by* the initial weighted value for the Dow Jones Euro STOXX 50<sup>®</sup> Index. The initial index level with respect to the Dow Jones Industrial Average<sup>®</sup> is 10,282.41, and the initial index level with respect to the Dow Jones Euro STOXX 50<sup>®</sup> Index is 2,730.57. The final index level with respect to each basket index will equal the closing level of such basket index on each of the averaging dates, subject to adjustments as described under “— Consequences of a Market Disruption Event or a Non-Trading Day” and “— Discontinuance or Modification of a Basket Index” below. The initial weighted value with respect to each basket index equals the *product* of the initial weight of such basket index *times* the initial basket level. The initial weight of the Dow Jones Industrial Average<sup>®</sup> is equal to 50%, and the initial weight of the Dow Jones Euro STOXX 50<sup>®</sup> Index is equal to 50%.

The participation rate is 100%. The basket return is calculated by *subtracting* the initial basket level from the final basket level and *dividing* the result by the initial basket level, with the quotient expressed as a percentage.

## **Stated Maturity Date**

The stated maturity date is August 27, 2015, unless that day is not a business day, in which case the stated maturity date will be the next following business day. If the determination date (the originally scheduled last averaging date) is postponed as described under “— Averaging Dates” below, the stated maturity date will be postponed by the same number of business day(s) from but excluding the originally scheduled determination date to and including the postponed determination date.

## **Averaging Dates**

The averaging dates are August 23, 2010, February 23, 2011, August 23, 2011, February 23, 2012, August 23, 2012, February 25, 2013, August 23, 2013, February 24, 2014, August 25, 2014, February 23, 2015 and August 24, 2015 (the determination date will be the last averaging date), unless the calculation agent determines that a market disruption event occurs or is continuing on those days or those days are not otherwise trading days with respect to any basket index. In that event, the applicable averaging date with respect to any basket index affected by

a market disruption event or a non-trading day will be the first following trading day with respect to such basket index on which the calculation agent determines that a market disruption event with respect to such basket index does not occur and is not continuing. No averaging date, however, with respect to any basket index will be postponed by more than five scheduled business days or, in the case of the last averaging date, to a date later than the originally scheduled stated maturity date or, if the originally scheduled stated maturity date is not a business day, later than the first business day after the originally scheduled stated maturity date. If a market disruption event with respect to such basket index occurs or is continuing on the last possible averaging date with respect to such basket index or such last possible day is not a trading day with respect to such basket index, that day will nevertheless be the last averaging date with respect to such basket index, and thus the determination date.

#### **Consequences of a Market Disruption Event or a Non-Trading Day**

If a market disruption event with respect to any basket index occurs or is continuing on a day that would otherwise be an averaging date or such day is not a trading day, then the applicable averaging date, solely with respect to such affected basket index, will be postponed as described under “— Averaging Dates” above. As a result of the foregoing, the stated maturity date for your notes may also be postponed, as described under “— Stated Maturity Date” above.

If any averaging date is postponed due to a market disruption event or non-trading day with respect to one or more of the basket indices, the basket closing level for the applicable averaging date will be calculated based on (i) the closing level of the basket index that is not affected by the market disruption event or non-trading day, if any, on the applicable scheduled averaging date with respect to such basket index, if any, and (ii) the closing level of each of the basket indices that is affected by the market disruption event or non-trading day determined on the applicable postponed averaging date with respect to each such basket index. If the closing level of any basket index that must be used to determine the supplemental amount is not available on the last possible averaging date with respect to such basket index because of a market disruption event, a non-trading day or for any other reason (except as described under “— Discontinuance or Modification of a Basket Index” below), the

calculation agent will nevertheless determine the closing level of such basket index based on its assessment, made in its sole discretion, of the level of such basket index on that day.

A market disruption event with respect to either basket index will not by itself constitute a market disruption event with respect to the remaining unaffected basket index.

#### **Discontinuance or Modification of a Basket Index**

If either index sponsor discontinues publication of the applicable basket index and such index sponsor or anyone else publishes a substitute index that the calculation agent determines is comparable to the applicable basket index, then the calculation agent will determine the amount payable on the stated maturity date by reference to the substitute index. We refer to any substitute index approved by the calculation agent as a successor index.

If the calculation agent determines that the publication of a basket index is discontinued and there is no successor index with respect to such basket index, the calculation agent will determine the amount payable on the stated maturity date, by a computation methodology that the calculation agent determines will as closely as reasonably possible replicate the applicable basket index.

If the calculation agent determines that a basket index, the index stocks comprising a basket index or the method of calculating a basket index is changed at any time in any respect — including any split or reverse split of the applicable basket index and any addition, deletion or substitution and any reweighting of the applicable index stocks, and whether the change is made by the applicable index sponsor under its existing policies or following a modification of those policies, is due to the publication of a successor index, is due to events affecting one or more of the applicable index stocks or their issuers, or is due to any other reason — and is not otherwise reflected in the level of the applicable basket index by the applicable index sponsor pursuant to the applicable index methodology described under “The Basket Indices” on page S-34, then the calculation agent will be permitted (but not required) to make such adjustments in the applicable basket index or the method of its calculation, as it believes are appropriate to

ensure that the final basket level, used to determine the amount payable on the stated maturity date, is equitable.

All determinations and adjustments to be made by the calculation agent with respect to a basket index may be made by the calculation agent in its sole discretion. The calculation agent is not obligated to make any such adjustments.

### **Mandatory Redemption**

If our status as an insured depository institution is terminated by the FDIC or us or as a result of our actions, we will redeem your notes then outstanding on the applicable mandatory redemption date in full at a price equal to the mandatory redemption amount. The mandatory redemption date will be the tenth business day after the last business day on which any of our outstanding deposit obligations would be insured by the FDIC. We describe the mandatory redemption amount under “— Special Calculation Provisions” below.

Notwithstanding the foregoing, in the event the mandatory redemption date occurs on or after the stated maturity date, you will receive the amount described under “— Payment of Principal on Stated Maturity Date” above.

### **Optional Redemption in the Event of Death or Adjudication of Incompetence**

The authorized representative of a deceased or incapacitated beneficial owner of a note will have the option to redeem the notes before (not on or after) the stated maturity date as described under “Description of the Notes — Redemption and Repayment” on page 32 of the accompanying offering circular.

### **Default Amount on Acceleration**

If an event of default occurs and the maturity of your notes is accelerated, we will pay the default amount in respect of the principal of your notes at the maturity, instead of the amount payable on the stated maturity date as described earlier. We describe the default amount under “— Special Calculation Provisions” below.

### **Manner of Payment**

Any payment on your notes at maturity will be made to an account designated by the holder of the notes and approved by us, or at the office of the fiscal agent in New York City, but only

when your notes are surrendered to the fiscal agent at that office. We also may make any payment in accordance with the applicable procedures of the depository.

### **Role of Calculation Agent**

The calculation agent will make all determinations regarding the final basket level; the basket closing levels; the basket return; the final index level for each basket index; the closing level of each basket index; market disruption events; successor indices; stated maturity date; averaging dates; the determination date; mandatory redemption date; business days, trading days; the default amount; the mandatory redemption amount; the supplemental amount and the amount payable on your notes at maturity; and any other determination as applicable or specified herein. Absent manifest error, all determinations of the calculation agent will be final and binding on you and us, without any liability on the part of the calculation agent.

Please note that Goldman, Sachs & Co., our affiliate, is currently serving as the calculation agent as of the original issue date of your notes. We may change the calculation agent for your notes at any time after the original issue date without notice, and Goldman, Sachs & Co. may resign as calculation agent at any time upon 60 days’ written notice to Goldman Sachs.

### **Special Calculation Provisions**

#### ***Business Day***

When we refer to a business day with respect to your notes, we mean each Monday, Tuesday, Wednesday, Thursday and Friday that is not a day on which banking institutions in New York City are authorized or obligated by law, regulation or executive order to close.

#### ***Trading Day***

When we refer to a trading day with respect to the Dow Jones Industrial Average<sup>®</sup>, we mean a day on which (i) the respective principal securities markets for all of the index stocks that underlie such index are open for trading, (ii) the index sponsor for such index is open for business and (iii) such index is calculated and published by the applicable index sponsor.

When we refer to a trading day with respect to the Dow Jones Euro STOXX 50<sup>®</sup> Index, we

mean a day on which (i) the index sponsor for such index is open for business and (ii) such index is calculated and published by the applicable index sponsor.

### **Closing Level**

When we refer to the closing level with respect to the Dow Jones Industrial Average<sup>®</sup> on any trading day, we mean the official closing level of the Dow Jones Industrial Average<sup>®</sup> or any successor index with respect to the Dow Jones Industrial Average<sup>®</sup> published by the applicable index sponsor at the regular weekday close of trading on the relevant exchanges on such trading day for the Dow Jones Industrial Average<sup>®</sup>.

When we refer to the closing level with respect to the Dow Jones Euro STOXX 50<sup>®</sup> Index on any trading day, we mean the official closing level of the Dow Jones Euro STOXX 50<sup>®</sup> Index or any successor index with respect to the Dow Jones Euro STOXX 50<sup>®</sup> Index published by the applicable index sponsor on such trading day for the Dow Jones Euro STOXX 50<sup>®</sup> Index.

### **Default Amount**

The default amount for your notes on any day will be an amount, in the specified currency for the principal of your notes, equal to the cost of having a qualified financial institution, of the kind and selected as described below, expressly assume all of our payment and other obligations with respect to your notes as of that day and as if no default or acceleration had occurred, or to undertake other obligations providing substantially equivalent economic value to you with respect to your notes. That cost will equal:

- the lowest amount that a qualified financial institution would charge to effect this *assumption* or undertaking, *plus*
- the reasonable expenses, including *reasonable* attorneys' fees, incurred by the holder of the notes in *preparing* any documentation necessary for this assumption or undertaking.

In no event, however, will the default amount for your notes be less than the face amount of your notes.

During the default quotation period for your notes, which we describe below, the holder

and/or we may request a qualified financial institution to provide a quotation of the amount it would charge to effect this assumption or undertaking. If either party obtains a quotation, it must notify the other party in writing of the quotation. The amount referred to in the first bullet point above will equal the lowest — or, if there is only one, the only — quotation obtained, and as to which notice is so given, during the default quotation period. With respect to any quotation, however, the party not obtaining the quotation may object, on reasonable and significant grounds, to the assumption or undertaking by the qualified financial institution providing the quotation and notify the other party in writing of those grounds within two business days after the last day of the default quotation period, in which case that quotation will be disregarded in determining the default amount.

### **Default Quotation Period**

The default quotation period is the period beginning on the day the default amount first becomes due and ending on the third business day after that day, unless:

- no quotation of the kind referred to above is obtained,
- every quotation of that kind obtained is objected to within five business days after the day the default amount first becomes due, or
- the default amount based on the quotation of that kind obtained and not objected to would be less than the face amount of your notes.

If any of these three events occurs, the default quotation period will continue until the third business day after the first business day on which prompt notice of a quotation is given as described above, if that quotation is objected to as described above within five business days after that first business day or if the default amount based on that quotation would be less than the face amount of your notes, however, the default quotation period will continue as described in the prior sentence and this sentence.

In any event, if the default quotation period and the subsequent two business day objection period have not ended before the determination

date, then the default amount will equal the principal amount of your notes.

### **Mandatory Redemption Amount**

The mandatory redemption amount for your notes on any day will be an amount, in the specified currency for the principal of your notes, equal to the cost of having a qualified financial institution, of the kind and selected as described below, expressly assume all of our payment and other obligations with respect to your notes as of that day and as if our insured status had not been terminated, or to undertake other obligations providing substantially equivalent economic value to you with respect to your notes. That cost will equal:

- the lowest amount that a qualified financial institution would charge to effect this *assumption* or undertaking, *plus*
- the reasonable expenses, including *reasonable* attorneys' fees, incurred by the holder of the notes in *preparing* any documentation necessary for this assumption or undertaking.

In no event, however, will the mandatory redemption amount for your notes be less than the face amount of your notes.

During the mandatory redemption quotation period for your notes, which we describe below, the holder and/or we may request a qualified financial institution to provide a quotation of the amount it would charge to effect this assumption or undertaking. If either party obtains a quotation, it must notify the other party in writing of the quotation. The amount referred to in the first bullet point above will equal the lowest — or, if there is only one, the only — quotation obtained, and as to which notice is so given, during the mandatory redemption quotation period. With respect to any quotation, however, the party not obtaining the quotation may object, on reasonable and significant grounds, to the assumption or undertaking by the qualified financial institution providing the quotation and notify the other party in writing of those grounds within two business days after the last day of the mandatory redemption quotation period, in which case that quotation will be disregarded in determining the mandatory redemption amount.

### **Mandatory Redemption Quotation Period**

The mandatory redemption quotation period is the period beginning on the day on which none of our outstanding deposit obligations would be insured by the FDIC and ending on the third business day after that day, unless:

- no quotation of the kind referred to above is obtained,
- every quotation of that kind obtained is objected to within five business days after the day on which none of our outstanding deposit obligations would be insured by the FDIC, or
- the mandatory redemption amount based on the quotation of that kind obtained and not objected to would be less than the face amount of your notes.

If any of these three events occurs, the mandatory redemption quotation period will continue until the third business day after the first business day on which prompt notice of a quotation is given as described above, if that quotation is objected to as described above within five business days after that first business day or if the mandatory redemption amount based on that quotation would be less than the face amount of your notes, however, the mandatory redemption quotation period will continue as described in the prior sentence and this sentence.

In any event, if the mandatory redemption quotation period and the subsequent two business day objection period have not ended before the mandatory redemption date, then the mandatory redemption amount will equal the face amount of your notes; provided, however, if the mandatory redemption quotation period and the subsequent two business day objection period have not ended before the determination date, then the mandatory redemption amount will equal the principal amount of your notes.

### **Qualified Financial Institutions**

For the purpose of determining the default amount and the mandatory redemption amount at any time, a qualified financial institution must be a financial institution organized under the laws of any jurisdiction in the United States of America, which at that time has outstanding debt

obligations with a stated maturity of one year or less from the date of issue and is rated *either*:

- A-1 or higher by Standard & Poor's Ratings Group or any successor, or any other comparable rating then used by that rating agency, *or*
- P-1 or higher by Moody's Investors Service, Inc. or any successor, or any other comparable rating then used by that rating agency.

### **Market Disruption Event**

Any of the following will be a market disruption event with respect to either basket index:

- a suspension, absence or material limitation of trading in index stocks constituting 20% or more, by weight, of the applicable basket index on their respective primary markets, in each case for more than two hours of trading or during the one-half hour before the close of trading in that market, as determined by the calculation agent in its sole discretion, *or*
- a suspension, absence or material limitation of trading in option or futures contracts relating to the applicable basket index or to index stocks constituting 20% or more, by weight, of the applicable basket index, if available, in the respective primary markets for those contracts, in each case for more than two hours of trading or during the one-half hour before the close of trading in that market, as determined by the calculation agent in its sole discretion, *or*
- index stocks constituting 20% or more, by weight, of the applicable basket index, or option or futures contracts relating to the applicable basket index, or to index stocks constituting 20% or more, by weight, of the applicable basket index, if available, do not trade on what were the respective primary markets for those index stocks or contracts, as determined by the calculation agent in its sole discretion,

and, in the case of any of these events, the calculation agent determines in its sole discretion that the event could materially interfere with the ability of Goldman Sachs Bank USA or any of its

affiliates or a similarly situated party to unwind all or a material portion of a hedge that could be effected with respect to the offered notes. For more information about hedging by Goldman Sachs Bank USA and/or any of its affiliates, see "Use of Proceeds and Hedging" on page S-33.

The following events will not be market disruption events with respect to any basket component:

- a limitation on the hours or numbers of days of trading, but only if the limitation results from an announced change in the regular business hours of the relevant market, and
- decision to permanently discontinue trading in the option or futures contracts relating to either basket index, or to any index stock.

For this purpose, an "absence of trading" in the primary securities market on which an index stock, or on which option or futures contracts relating to either basket index or an index stock, are traded will not include any time when that market is itself closed for trading under ordinary circumstances. In contrast, a suspension or limitation of trading in an index stock or in option or futures contracts relating to either basket index or an index stock, if available, in the primary market for that stock or those contracts, by reason of:

- a price change exceeding limits set by that market, *or*
- an imbalance of orders relating to that index stock or those contracts, *or*
- a disparity in bid and ask quotes relating to that index stock or those contracts,

will constitute a suspension or material limitation of trading in that stock or those contracts in that market.

A market disruption event with respect to one basket index will not, by itself, constitute a market disruption event for the remaining unaffected basket index.

As is the case throughout this offering circular supplement, references to a basket index in this description of market disruption events includes the applicable basket index and any

successor index as it may be modified, replaced

or adjusted from time to time.

## HYPOTHETICAL EXAMPLES

The following tables and chart are provided for purposes of illustration only. They should not be taken as an indication or prediction of future investment results and are intended merely to illustrate the impact that various hypothetical final basket levels or hypothetical basket closing levels could have on the payment amount at maturity assuming all other variables remain constant.

The examples below are based on a range of closing levels of the basket indices that are entirely hypothetical; no one can predict what the levels of basket indices will be on any day throughout the life of your notes, and, in particular, no one can predict what the basket closing levels will be on any averaging date. The basket indices have been highly volatile in the past — meaning that the levels of the basket indices have changed considerably in relatively short periods — and their performances cannot be predicted for any future period.

The information in the following examples reflects hypothetical rates of return on the offered notes assuming that they are purchased on the original issue date and held to the stated maturity date. In addition, assuming no changes in market conditions or any other relevant factors, the market value of your notes on the trade date (as determined by reference to pricing models used by Goldman, Sachs & Co.) is, and the price you may receive for your notes may be, significantly less than the issue price. For more information on the value of your notes in the secondary market, see “Additional Risk Factors Specific to Your Notes — Assuming No Changes in Market Conditions or any Other Relevant Factors, the Market Value of Your Notes on the Trade Date (as Determined by Reference to Pricing Models Used by Goldman, Sachs & Co.) Is, and the Price You May Receive for Your Notes May Be, Significantly Less Than the Issue Price” on page S-9. If you sell your notes in a secondary market prior to the stated maturity date, your return will depend upon the market value of your notes at the time of sale, which may be affected by a number of factors that are not reflected in the table below such as interest rates and the volatility of the basket indices. The information in the table also reflects the key terms and assumptions in the box below.

<b>Key Terms and Assumptions</b>	
Face amount .....	\$1,000
Participation rate .....	100%
Initial Basket level .....	100
Initial weighted value for the Dow Jones Industrial Average® .....	50
Initial weighted value for the Dow Jones Euro STOXX 50® Index .....	50
Initial Index Level for the Dow Jones Industrial Average® .....	10,282.41
Initial Index Level for the Dow Jones Euro STOXX 50® Index .....	2,730.57
Neither a market disruption event nor a non-trading day occurs with respect to either basket index on the originally scheduled averaging dates	
No change in or affecting any of the index stocks or the method by which the index sponsors calculate the basket indices	
Notes purchased on original issue date and held to the stated maturity date	

For these reasons, the actual performance of the basket indices over the life of your notes, particularly on each of the averaging dates, as well as the amount payable at maturity may bear little relation to the hypothetical examples shown below or to the historical index levels shown elsewhere in this offering circular supplement. For information about the historical levels of the basket indices during recent periods, see “The Basket Indices — Historical High, Low and Closing Levels of the Basket Indices” on page S-38. Before investing in the offered notes, you should consult publicly available information to determine the levels of the basket indices between the date of this offering circular supplement and the date of your purchase of the offered notes.

Also, the hypothetical examples shown below do not take into account the effects of applicable taxes. Because of the U.S. tax

treatment applicable to your notes, tax liabilities could affect the after-tax rate of return on your notes to a comparatively greater extent than the after-tax return on the index stocks.

The levels in the left column of the table below represent hypothetical final basket levels and are expressed as percentages of the initial basket level. The amounts in the right column represent the hypothetical payment amounts, based on the corresponding hypothetical final basket level (expressed as a percentage of the

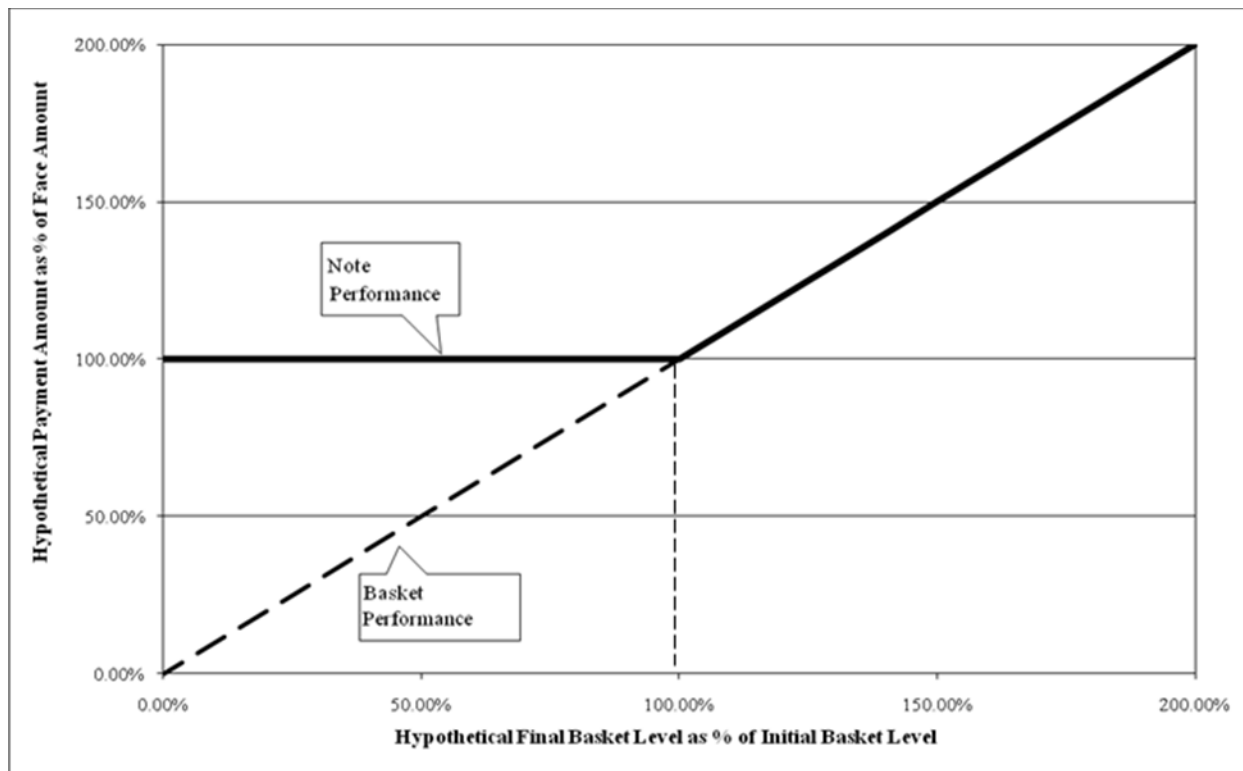
initial basket level), and are expressed as percentages of the face amount of a note. Thus, a hypothetical payment amount of 100% means that the value of the cash payment that we would deliver for the outstanding face amount of an offered note on the stated maturity date would equal 100% of the face amount of such note, based on the corresponding hypothetical final basket level (expressed as a percentage of the initial basket level) and the assumptions noted above.

Hypothetical Final Basket Level (as Percentage of Initial Basket Level)	Hypothetical Payment Amount (as Percentage of Face Amount)
150.00%	150.00%
125.00%	125.00%
115.00%	115.00%
110.00%	110.00%
<b>100.00%</b>	<b>100.00%</b>
90.00%	100.00%
70.00%	100.00%
50.00%	100.00%
25.00%	100.00%
<b>0.00%</b>	<b>100.00%</b>

If, for example, the final basket level were determined to be 25.00% of the initial basket level, the payment amount that we would deliver on your notes at maturity would be 100.00% of the face amount of your notes, as shown in the table above. As a result, if you purchased your notes on the original issue date and held them to the stated maturity date, you would not receive any supplemental amount on your notes. In addition, if the final basket level were determined to be 150.00% of the initial basket level, the payment amount that we would deliver on your notes at maturity would be 150.00% of the face amount of your notes, as shown in the table above.

The following chart also shows a graphical illustration of the hypothetical payment amounts (expressed as a percentage of the face amount of your notes) that we would pay on your notes on

the stated maturity date, if the final basket level (expressed as a percentage of the initial basket level) were any of the hypothetical levels shown on the horizontal axis. The chart shows that any hypothetical final basket level (expressed as a percentage of the initial basket level) of less than 100.00% (the section left of the 100% marker on the horizontal axis) would result in a hypothetical payment amount equal to 100.00% of the face amount of your notes (the horizontal line that crosses the 100% marker on the vertical axis) and, accordingly, in no positive or negative return to the holder of the notes. The chart also shows that any hypothetical final basket level (expressed as a percentage of the initial basket level) of greater than 100.00% (the section right of the 100% marker on the horizontal axis) would result in a return on your investment that is less than the return on the basket to which your notes are linked.



The final basket level will be determined by calculating the arithmetic average of the basket closing levels on each of the averaging dates. The examples below demonstrate how changes in the final index levels and the basket closing levels on the averaging dates may affect the supplemental amount and thus the payment

amount that you will receive on the stated maturity date for each \$1,000 face amount of your notes, based on the assumptions noted below. The hypothetical final index levels and the hypothetical basket closing levels have been rounded.

<b>Scenario 1</b>	
1st Averaging Date, Dow Jones Industrial Average <sup>®</sup> Final Index Level	10,796.531
1st Averaging Date, Dow Jones Euro STOXX 50 <sup>®</sup> Index Final Index Level	2,867.099
<b>1st Averaging Date, Basket Closing Level</b>	<b>105.000</b>
2nd Averaging Date, Dow Jones Industrial Average <sup>®</sup> Final Index Level	11,310.651
2nd Averaging Date, Dow Jones Euro STOXX 50 <sup>®</sup> Index Final Index Level	3003.627
<b>2nd Averaging Date, Basket Closing Level</b>	<b>110.000</b>
3rd Averaging Date, Dow Jones Industrial Average <sup>®</sup> Final Index Level	11,824.772
3rd Averaging Date, Dow Jones Euro STOXX 50 <sup>®</sup> Index Final Index Level	3140.156
<b>3rd Averaging Date, Basket Closing Level</b>	<b>115.000</b>
4th Averaging Date, Dow Jones Industrial Average <sup>®</sup> Final Index Level	12,338.892
4th Averaging Date, Dow Jones Euro STOXX 50 <sup>®</sup> Index Final Index Level	3,276.684

<b>4th Averaging Date, Basket Closing Level</b>	<b>120.000</b>
5th Averaging Date, Dow Jones Industrial Average <sup>®</sup> Final Index Level	12,853.013
5th Averaging Date, Dow Jones Euro STOXX 50 <sup>®</sup> Index Final Index Level	3,413.213
<b>5th Averaging Date, Basket Closing Level</b>	<b>125.000</b>
6th Averaging Date, Dow Jones Industrial Average <sup>®</sup> Final Index Level	13,367.133
6th Averaging Date, Dow Jones Euro STOXX 50 <sup>®</sup> Index Final Index Level	3,549.741
<b>6th Averaging Date, Basket Closing Level</b>	<b>130.000</b>
7th Averaging Date, Dow Jones Industrial Average <sup>®</sup> Final Index Level	13,881.254
7th Averaging Date, Dow Jones Euro STOXX 50 <sup>®</sup> Index Final Index Level	3,686.27
<b>7th Averaging Date, Basket Closing Level</b>	<b>135.000</b>
8th Averaging Date, Dow Jones Industrial Average <sup>®</sup> Final Index Level	14,395.374
8th Averaging Date, Dow Jones Euro STOXX 50 <sup>®</sup> Index Final Index Level	3,822.798
<b>8th Averaging Date, Basket Closing Level</b>	<b>140.000</b>
9th Averaging Date, Dow Jones Industrial Average <sup>®</sup> Final Index Level	14,909.495
9th Averaging Date, Dow Jones Euro STOXX 50 <sup>®</sup> Index Final Index Level	3,959.327
<b>9th Averaging Date, Basket Closing Level</b>	<b>145.000</b>
10th Averaging Date, Dow Jones Industrial Average <sup>®</sup> Final Index Level	15,423.615
10th Averaging Date, Dow Jones Euro STOXX 50 <sup>®</sup> Index Final Index Level	4,095.855
<b>10th Averaging Date, Basket Closing Level</b>	<b>150.000</b>
<b>Hypothetical Final Basket Level</b>	<b>127.500</b>
<b>Hypothetical Basket Return</b>	<b>27.500%</b>
<b>Hypothetical Participation Rate</b>	<b>100.000%</b>
<b>Supplemental Amount</b>	<b>\$ 275.00</b>
<b>Payment Amount at Maturity on a \$1,000 Face Amount</b>	<b>\$ 1,275.00</b>

In the first scenario, the final index levels are higher than the initial index level for each basket index over the averaging dates. The basket closing levels increase on each averaging date, but due to the averaging of the basket closing levels over the averaging dates, the final basket level of 127.500 is lower than the basket closing level of 150.000 on the last averaging date. At maturity, for each note, you will receive \$1,275 (the *sum* of the \$1,000 face amount *plus* the supplemental amount of \$275). The return on your notes at maturity represents a 27.500% increase above the \$1,000 face amount, which is less than the 50% increase from the initial basket level to the basket closing level on the last averaging date.

<b>Scenario 2</b>	
1st Averaging Date, Dow Jones Industrial Average <sup>®</sup> Final Index Level	11,310.651
1st Averaging Date, Dow Jones Euro STOXX 50 <sup>®</sup> Index Final Index Level	3,003.627
<b>1st Averaging Date, Basket Closing Level</b>	<b>110.000</b>
2nd Averaging Date, Dow Jones Industrial Average <sup>®</sup> Final Index Level	11,002.179

2nd Averaging Date, Dow Jones Euro STOXX 50 <sup>®</sup> Index Final Index Level	2,457.513
<b>2nd Averaging Date, Basket Closing Level</b>	<b>99.000</b>
3rd Averaging Date, Dow Jones Industrial Average <sup>®</sup> Final Index Level	9,768.29
3rd Averaging Date, Dow Jones Euro STOXX 50 <sup>®</sup> Index Final Index Level	2,594.042
<b>3rd Averaging Date, Basket Closing Level</b>	<b>95.000</b>
4th Averaging Date, Dow Jones Industrial Average <sup>®</sup> Final Index Level	8,740.049
4th Averaging Date, Dow Jones Euro STOXX 50 <sup>®</sup> Index Final Index Level	2,320.985
<b>4th Averaging Date, Basket Closing Level</b>	<b>85.000</b>
5th Averaging Date, Dow Jones Industrial Average <sup>®</sup> Final Index Level	8,225.928
5th Averaging Date, Dow Jones Euro STOXX 50 <sup>®</sup> Index Final Index Level	2,184.456
<b>5th Averaging Date, Basket Closing Level</b>	<b>80.000</b>
6th Averaging Date, Dow Jones Industrial Average <sup>®</sup> Final Index Level	8,020.28
6th Averaging Date, Dow Jones Euro STOXX 50 <sup>®</sup> Index Final Index Level	2,129.845
<b>6th Averaging Date, Basket Closing Level</b>	<b>78.000</b>
7th Averaging Date, Dow Jones Industrial Average <sup>®</sup> Final Index Level	7,711.808
7th Averaging Date, Dow Jones Euro STOXX 50 <sup>®</sup> Index Final Index Level	2,047.928
<b>7th Averaging Date, Basket Closing Level</b>	<b>75.000</b>
8th Averaging Date, Dow Jones Industrial Average <sup>®</sup> Final Index Level	7,197.687
8th Averaging Date, Dow Jones Euro STOXX 50 <sup>®</sup> Index Final Index Level	1,911.399
<b>8th Averaging Date, Basket Closing Level</b>	<b>70.000</b>
9th Averaging Date, Dow Jones Industrial Average <sup>®</sup> Final Index Level	6,992.039
9th Averaging Date, Dow Jones Euro STOXX 50 <sup>®</sup> Index Final Index Level	1,856.788
<b>9th Averaging Date, Basket Closing Level</b>	<b>68.000</b>
10th Averaging Date, Dow Jones Industrial Average <sup>®</sup> Final Index Level	6,683.567
10th Averaging Date, Dow Jones Euro STOXX 50 <sup>®</sup> Index Final Index Level	1,774.871
<b>10th Averaging Date, Basket Closing Level</b>	<b>65.000</b>
<b>Hypothetical Final Basket Level</b>	<b>82.500</b>
<b>Hypothetical Basket Return</b>	<b>-17.500%</b>
<b>Hypothetical Participation Rate</b>	<b>100.000%</b>
<b>Supplemental Amount</b>	<b>\$ 0</b>
<b>Payment Amount at Maturity on a \$1,000 Face Amount</b>	<b>\$ 1,000.00</b>

In the second scenario, the final index levels are both higher and lower than the initial index level for each basket index over the averaging dates. The basket closing level decreases on each averaging date. The averaging of the basket closing levels over the averaging dates results in a final basket level of 82.500, which is higher than the basket closing level of 65.000 on the last averaging date. But, because the final basket level is less than the initial basket level, the supplemental amount will equal \$0. Therefore, you will receive the \$1,000 face amount for each note at maturity, even though the basket closing level on the last averaging date decreases by 35% from the initial basket level.

<b>Scenario 3</b>	
1st Averaging Date, Dow Jones Industrial Average <sup>®</sup> Final Index Level	9,768.29
1st Averaging Date, Dow Jones Euro STOXX 50 <sup>®</sup> Index Final Index Level	2,594.042
<b>1st Averaging Date, Basket Closing Level</b>	<b>95.000</b>
2nd Averaging Date, Dow Jones Industrial Average <sup>®</sup> Final Index Level	8,740.049
2nd Averaging Date, Dow Jones Euro STOXX 50 <sup>®</sup> Index Final Index Level	2,320.985
<b>2nd Averaging Date, Basket Closing Level</b>	<b>85.000</b>
3rd Averaging Date, Dow Jones Industrial Average <sup>®</sup> Final Index Level	7,711.808
3rd Averaging Date, Dow Jones Euro STOXX 50 <sup>®</sup> Index Final Index Level	2,047.928
<b>3rd Averaging Date, Basket Closing Level</b>	<b>75.000</b>
4th Averaging Date, Dow Jones Industrial Average <sup>®</sup> Final Index Level	7,197.687
4th Averaging Date, Dow Jones Euro STOXX 50 <sup>®</sup> Index Final Index Level	1,911.399
<b>4th Averaging Date, Basket Closing Level</b>	<b>70.000</b>
5th Averaging Date, Dow Jones Industrial Average <sup>®</sup> Final Index Level	6,683.567
5th Averaging Date, Dow Jones Euro STOXX 50 <sup>®</sup> Index Final Index Level	1,774.871
<b>5th Averaging Date, Basket Closing Level</b>	<b>65.000</b>
6th Averaging Date, Dow Jones Industrial Average <sup>®</sup> Final Index Level	6,992.039
6th Averaging Date, Dow Jones Euro STOXX 50 <sup>®</sup> Index Final Index Level	1,856.788
<b>6th Averaging Date, Basket Closing Level</b>	<b>68.000</b>
7th Averaging Date, Dow Jones Industrial Average <sup>®</sup> Final Index Level	7,506.159
7th Averaging Date, Dow Jones Euro STOXX 50 <sup>®</sup> Index Final Index Level	1,993.316
<b>7th Averaging Date, Basket Closing Level</b>	<b>73.000</b>
8th Averaging Date, Dow Jones Industrial Average <sup>®</sup> Final Index Level	8,225.928
8th Averaging Date, Dow Jones Euro STOXX 50 <sup>®</sup> Index Final Index Level	2,184.456
<b>8th Averaging Date, Basket Closing Level</b>	<b>80.000</b>
9th Averaging Date, Dow Jones Industrial Average <sup>®</sup> Final Index Level	8,534.4
9th Averaging Date, Dow Jones Euro STOXX 50 <sup>®</sup> Index Final Index Level	2,266.373
<b>9th Averaging Date, Basket Closing Level</b>	<b>83.000</b>
10th Averaging Date, Dow Jones Industrial Average <sup>®</sup> Final Index Level	9,048.521
10th Averaging Date, Dow Jones Euro STOXX 50 <sup>®</sup> Index Final Index Level	2,402.902
<b>10th Averaging Date, Basket Closing Level</b>	<b>88.000</b>
<b>Hypothetical Final Basket Level</b>	<b>78.200</b>
<b>Hypothetical Basket Return</b>	<b>-21.800%</b>
<b>Hypothetical Participation Rate</b>	<b>100%</b>
<b>Supplemental Amount</b>	<b>\$ 0</b>
<b>Payment Amount at Maturity on a \$1,000 Face Amount</b>	<b>\$ 1,000.00</b>

In the third scenario, the final index levels are both higher and lower than the initial index level for each basket index over the averaging dates. The basket closing level declines on each of the first five averaging dates to a low of 65.000 and increases on each of the last five averaging dates. The final basket level of 78.200 is less than the basket closing level of 88.000 on the last averaging date. Because the final basket level is also less than the initial basket level, the supplemental amount will be \$0, and you will receive the \$1,000 face amount for each note at maturity, although the basket closing level on the last averaging date decreases by 12% from the initial basket level.

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The payment amounts and supplemental amounts shown above are entirely hypothetical; they are based on basket closing levels that may not be achieved on the averaging dates and on assumptions that may prove to be erroneous. The actual market value of your notes on the stated maturity date or at any other time, including any time you may wish to sell your notes, may bear little relation to the hypothetical

payment amounts shown above, and these amounts should not be viewed as an indication of the financial return on an investment in the offered notes. Please read “Additional Risk Factors Specific to Your Notes — The Market Value of Your Notes May Be Influenced by Many Factors That Are Unpredictable and Interrelated in Complex Ways” on page S-10.

*We cannot predict the actual basket closing levels on each of the averaging dates or the market value of your notes, nor can we predict the relationship between the levels of the basket indices and the market value of your notes at any time prior to the stated maturity date. The actual amount that you will receive at maturity and the rate of return on the offered notes will depend on the actual final basket level determined by the calculation agent as described above. Moreover, the assumptions on which the hypothetical returns are based may turn out to be inaccurate. Consequently, the amount of cash to be paid in respect of your notes on the stated maturity date may be very different from the information reflected in the table, chart and examples above.*

## THE GUARANTEE

**The Goldman Sachs Group, Inc. has filed a registration statement (including a prospectus) with the SEC relating to the guarantee. The registration statement does not apply to the notes that are subject to the guarantee. Before you invest in the notes, you should read the prospectus in that registration statement and the periodic reports and other documents that The Goldman Sachs Group, Inc. has filed with the SEC for more complete information about The Goldman Sachs Group, Inc. and the guarantee. You may get these documents for free by visiting EDGAR on the SEC Web site at [www.sec.gov](http://www.sec.gov). Alternatively, The Goldman Sachs Group, Inc., Goldman Sachs Bank USA or any agent participating in the offering of the notes will arrange to send you the prospectus if you request it by calling toll-free 1-866-471-2526.**

Under a General Guarantee Agreement, dated December 1, 2008, as the same may be amended from time to time (which we refer to as the “guarantee agreement”), The Goldman Sachs Group, Inc. unconditionally and, subject to the provisions thereof, irrevocably guarantees each holder of notes the complete payment when

due, whether by acceleration or otherwise, of all payment obligations of Goldman Sachs Bank USA in connection with such notes.

For information with respect to the guarantee and the guarantee agreement, see “The Guarantee and The Guarantee Agreement” on page 45 of the accompanying offering circular.

## USE OF PROCEEDS AND HEDGING

We will use the net proceeds we receive from the sale of the offered notes for the purposes we describe in the accompanying offering circular under “Use of Proceeds”. We or our affiliates may also use those proceeds in transactions intended to hedge our obligations under the offered notes as described below.

In anticipation of the sale of the notes, we and/or our affiliates have entered into or expect to enter into cash-settled hedging transactions involving purchases of the listed or over-the-counter options, futures and/or other instruments linked to the basket indices, the index stocks, foreign currencies or other instruments linked to the basket indices. In addition, from time to time after we issue the notes, we and/or our affiliates expect to enter into additional hedging transactions and to unwind those we have entered into, in connection with the notes and perhaps in connection with other notes we issue, some of which may have returns linked to any one or more of the basket indices, the index stocks or foreign currencies. Consequently, with regard to your notes, from time to time, we and/or our affiliates:

- expect to acquire or dispose of cash-settled positions in listed or over-the-counter options, futures or other instruments linked to one or both of the basket indices, or some or all index stocks or foreign currencies, and/or
- may acquire or dispose of U.S. dollars in foreign exchange transactions involving the Japanese yen, euro, British pound sterling or other foreign currency or currencies.

We and/or our affiliates may acquire a long or short position in securities similar to the offered notes from time to time and may, in our or their sole discretion, hold or resell those securities.

In the future, we and/or our affiliates expect to close out hedge positions relating to the notes and perhaps relating to other notes with returns linked to the basket indices, the index stocks or the foreign currencies. We expect these steps to involve sales of instruments linked to the basket indices, the index stocks or the foreign currencies on or shortly before any averaging date. These steps also may involve sales and/or purchases of some or all of the listed or over-the-counter

options, futures or other instruments linked to either one or both of the basket indices, or the foreign currencies.

*The hedging activity discussed above may adversely affect the market value of your notes from time to time and the value of the consideration that we will deliver on your notes at maturity. See “Additional Risk Factors Specific to Your Notes — Trading and Other Transactions by Goldman Sachs in Instruments Linked to the Basket Indices, the Currencies They Are Denominated in or the Index Stocks Underlying the Basket Indices May Impair the Value of Your Notes” on page S-11 and “Additional Risk Factors Specific to Your Notes — Our Business Activities May Create Conflicts of Interest between Your Interests in the Notes and Us” on page S-12 for a discussion of these adverse effects.*

## THE BASKET INDICES

We have derived all information regarding the Dow Jones Industrial Average<sup>®</sup> and the Dow Jones Euro STOXX 50<sup>®</sup> Index contained in this offering circular supplement, including, without limitation, their composition, methods of calculation and changes in their components, from publicly available information. Such information reflects the policies of, and is subject to change by the index sponsors. We make no representation or warranty as to the accuracy or completeness of such information. The index sponsors have no obligation to continue to publish, and may discontinue publication of, the basket indices.

### Dow Jones Industrial Average<sup>®</sup>

The Dow Jones Industrial Average<sup>®</sup>, which we refer to as the DJIA, is a price-weighted index composed of 30 common stocks selected at the discretion of the editors of The Wall Street Journal (the “WSJ”), which is published by Dow Jones & Company, Inc., which we refer to as Dow Jones, as representative of the broad market of U.S. industry. The DJIA is reported by Bloomberg under the ticker symbol “INDU <Index>”. Dow Jones is under no obligation to continue to publish the DJIA and may discontinue publication of the DJIA at any time.

There are no pre-determined criteria for selection of a component stock except that component companies represented by the DJIA should be established U.S. companies that are leaders in their industries. The DJIA serves as a measure of the entire U.S. market, including such sectors as financial services, technology, retail, entertainment and consumer goods and is not limited to traditionally defined industrial stocks. Changes in the composition of the DJIA are made entirely by the editors of the WSJ without consultation with the component companies represented in the DJIA, any stock exchange, any official agency or us. In order to maintain continuity, changes to the index stocks included in the DJIA tend to be made infrequently and generally occur only after a component company goes through a major change, such as a shift in its main line of business, acquisition by another company, or bankruptcy. When one component stock is replaced, the entire index is reviewed. As a result, multiple component changes are often implemented simultaneously. The component stocks of the DJIA may be changed

at any time for any reason. Where any index component stock price is unavailable on any trading day, the index sponsor will generally use the last reported price for such component stock.

The top ten constituent stocks of the DJIA as of January 29, 2010, by weight, are: International Business Machines Corp. (9.19%), 3M Co. (6.04%), Chevron Corp. (5.41%), United Technologies Corp. (5.07%), Exxon Mobil Corp. (4.84%), Johnson & Johnson (4.72%), McDonald’s Corp. (4.69%), Procter & Gamble Co. (4.62%), Boeing Co. (4.55%) and Coca-Cola Co. (4.07%); constituent weightings may be found at [http://www.djindexes.com/mdsidx/downloads/fact\\_info/Dow\\_Jones\\_Industrial\\_Average\\_Fact\\_Sheet.pdf](http://www.djindexes.com/mdsidx/downloads/fact_info/Dow_Jones_Industrial_Average_Fact_Sheet.pdf) under “Top Components.”

The DJIA is price weighted rather than market capitalization weighted. Therefore, the component stock weightings are affected only by changes in the stocks’ prices, in contrast with the weightings of other indices that are affected by both price changes and changes in the number of shares outstanding. The value of the DJIA is the *sum* of the primary exchange prices of each of the 30 common stocks included in the DJIA, *divided* by a divisor. The divisor is changed in accordance with a mathematical formula to adjust for stock dividends, stock splits, spin-offs and other corporate actions. The current divisor of the DJIA is published daily in the WSJ and other publications. While this methodology reflects current practice in calculating the DJIA, no assurance can be given that Dow Jones will not modify or change this methodology in a manner that may affect the return on your notes.

The current formula used to calculate divisor adjustments is as follows: the new divisor (*i.e.*, the divisor on the next trading session) is equal to (1) the divisor on the current trading session, *times* (2) the *quotient* of (a) the sum of the adjusted (for stock dividends, splits, spin-offs and other applicable corporate actions) closing prices of the DJIA components on the current trading session and (b) the sum of the unadjusted closing prices of the DJIA components on the current trading session.

$$\text{New Divisor} = \text{Current Divisor} \times \frac{\text{Adjusted Sum of Prices}}{\text{Unadjusted Sum of Prices}}$$

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All disclosures contained in this offering circular supplement regarding the Dow Jones Industrial Average<sup>®</sup>, including its make-up, method of calculation and changes in its components, are derived from publicly available information prepared by Dow Jones & Company Inc. Goldman Sachs does not assume any responsibility for the accuracy or completeness of that information.

**Dow Jones Euro STOXX 50<sup>®</sup> Index**

The Dow Jones Euro STOXX 50<sup>®</sup> Index, which we refer to as the Euro STOXX 50 Index, is a capitalization-weighted index of 50 European blue-chip stocks and was created by STOXX Limited, a joint venture between Deutsche Boerse AG, Dow Jones & Company, Inc. and SWX Swiss Exchange. Publication of the Euro STOXX 50 Index began on February 28, 1998, based on an initial index value of 1,000 at December 31, 1991. The Euro STOXX 50 Index is published in The Wall Street Journal and disseminated on the STOXX Limited website: <http://www.stoxx.com>. STOXX Limited is under no obligation to continue to publish the Euro STOXX 50 Index and may discontinue

publication of the Euro STOXX 50 Index at any time.

*Euro STOXX 50 Index Composition and Maintenance.* The Euro STOXX 50 Index is composed of 50 index stocks of market sector leaders from within the 19 Dow Jones Euro STOXX Supersector Indices, which represents the Eurozone portion of the Dow Jones STOXX 600 Supersector indices. The index stocks have a high degree of liquidity and represent the largest companies across all market sectors.

The composition of the Euro STOXX 50 Index is reviewed annually in September. Within each of the 19 Dow Jones Euro STOXX Supersector indices, the respective index component stocks are ranked by free-float market capitalization. The largest stocks are added to the selection list until the coverage is close to, but still less than, 60% of the free-float market capitalization of the corresponding Dow Jones Euro STOXX TMI Supersector index. If the next-ranked stock brings the coverage closer to 60% in absolute terms, then it is also added to the selection list. Any remaining stocks that are current Dow Jones Euro STOXX 50<sup>®</sup> components are added to the selection list. The stocks on the selection list are ranked by free-float market capitalization. In exceptional cases, the STOXX Limited Supervisory Board may make additions and deletions to the selection list. The 40 largest stocks on the selection list are chosen as index components. Any remaining current components of the Dow Jones Euro STOXX 50<sup>®</sup> ranked between 41 and 60 are added as index components. If the number of index components is still below 50, then the largest stocks on the selection list are added until the index contains 50 stocks.

The free float factors for each index stock used to calculate the Euro STOXX 50 Index, as described below, are reviewed, calculated and implemented on a quarterly basis and are fixed until the next quarterly review. Each component's weight is capped at 10% of the Euro STOXX 50 Index's total free float market capitalization.

The Euro STOXX 50 Index is also reviewed on an ongoing basis. Corporate actions (including initial public offerings, mergers and takeovers, spin-offs, delistings and bankruptcy) that affect the Euro STOXX 50 Index composition are immediately reviewed. Any changes are announced, implemented and effective in line

with the type of corporate action and the magnitude of the effect. Where any index component stock price is unavailable on any trading day, the index sponsor will generally use the last reported price for such component stock; further information may be found at <http://www.stoxx.com/indices/download.html?symbol=SX5E> under "General Information – Index Guide".

The top ten constituent stocks of the Euro STOXX 50 Index as of January 29, 2010, by weight, are: Total (6.06%), BCO Santander (5.53%), Telefonica (4.69%), Sanofi-Aventis (3.76%), E.ON (3.51%), Siemens (3.50%), BNP Paribas (3.39%), BCO Bilbao Vizcaya Argentaria (2.74%), Eni (2.72%), and Bayer (2.69%); constituent weightings may be found at <http://www.stoxx.com/indices/download.html?symbol=SX5E> under "General Information – Index Factsheet" and are updated periodically.

As of January 29, 2010, the 17 industry sectors which comprise the Euro STOXX 50 Index represent the following weights in the index: banks (20.5%); utilities (10.9%); oil & gas (9.7%); telecommunications (9.4%); insurance (9.3%); chemicals (6.5%); food & beverage (5.6%); industrial goods and services (5.4%); technology (4.4%); personal and household goods (3.9%); health care (3.8%); construction and materials (3.1%); automobiles and parts (2.1%); basic resources (1.7%); media (1.5%); retail (1.4%) and financial services (0.6%); industry weightings may be found at <http://www.stoxx.com/indices/download.html?symbol=SX5E> under "General Information – Index Factsheet" and are updated periodically.

As of January 29, 2010, the 9 countries which comprise the Euro STOXX 50 Index represent the following weights in the index: France (35.1%); Germany (26.1%); Spain (15.4%); Italy (10.8%); the Netherlands (5.9%); Finland (2.5%); Luxembourg (1.7%); Belgium (1.6%) and Ireland (0.8%); country weightings may be found at <http://www.stoxx.com/indices/download.html?symbol=SX5E> under "General Information – Index Factsheet" and are updated periodically.

*Sector designations are determined by the index sponsor using criteria it has selected or developed. Index sponsors may use very different standards for determining sector designations. In addition, many companies operate in a number of sectors, but are listed in only one sector and the basis on which that*

sector is selected may also differ. As a result, sector comparisons between indices with different index sponsors may reflect differences in methodology as well as actual differences in the sector composition of the indices.

*Index Calculation.* The Euro STOXX 50 Index is calculated with the “Laspeyres formula,” which measures the aggregate price changes in the index stocks against a fixed base quantity weight. The formula for calculating the Euro STOXX 50 Index value can be expressed as follows:

$$\text{Index} = \frac{\text{Free float market capitalization of the Euro STOXX 50 Index}}{\text{divisor}}$$

The “free float market capitalization of the Euro STOXX 50 Index” is equal to the sum of the product of the price, number of shares, free float factor and weighting cap factor for each index stock as of the time the Euro STOXX 50 Index is being calculated.

The “divisor” for the Euro STOXX 50 Index is adjusted to maintain the continuity of the Euro STOXX 50 Index values across changes due to corporate actions. The following is a summary of the adjustments to any index stock made for corporate actions and the effect of such adjustment on the divisor, where shareholders of the index stock will receive “B” number of shares for every “A” share held (where applicable).

(1) *Cash dividend:*

Adjusted price = closing price – announced dividend \* (1 – withholding tax)  
Divisor: decreases

(2) *Special cash dividend:*

Adjusted price = closing price – announced dividend \* (1 – withholding tax)  
Divisor: decreases

(3) *Split and reverse split:*

Adjusted price = closing price \* A / B  
New number of shares = old number of shares \* B / A  
Divisor: no change

(4) *Rights offering:*

Adjusted price = (closing price \* A + subscription price \* B) / (A + B)  
New number of shares = old number of shares \* (A + B) / A  
Divisor: increases

(5) *Stock dividend:*

Adjusted price = closing price \* A / (A + B)  
New number of shares = old number of shares \* (A + B) / A  
Divisor: no change

(6) *Stock dividend of another company:*

Adjusted price = (closing price \* A – price of other company \* B) / A  
Divisor: decreases

(7) *Return of capital and share consideration:*

Adjusted price = (closing price – dividend announced by company \* (1 – withholding tax)) \* A / B  
New number of shares = old number of shares \* B / A  
Divisor: decreases

(8) *Repurchase shares / self tender:*

Adjusted price = ((price before tender \* old number of shares) – (tender price \* number of tendered shares)) / (old number of shares – number of tendered shares)  
New number of shares = old number of shares – number of tendered shares  
Divisor: decreases

(9) *Spin-off:*

Adjusted price = (closing price \* A – price of spun-off shares \* B) / A  
Divisor: decreases

(10) *Combination stock distribution (dividend or split) and rights offering:*

For this corporate action, the following additional assumptions apply:

- Shareholders receive B new shares from the distribution and C new shares from the rights offering for every A shares held

- If A is not equal to one share, all the following “new number of shares” formulae need to be divided by A:

- *If rights are applicable after stock distribution (one action applicable to other):*

Adjusted price = (closing price \* A + subscription price \* C \* (1 + B / A)) / ((A + B) \* (1 + C / A))

New number of shares = old number of shares \* ((A + B) \* (1 + C / A)) / A

Divisor: increases

- *if stock distribution is applicable after rights (one action applicable to other):*

Adjusted price = (closing price \* A + subscription price \* C) / ((A + C) \* (1 + B / A))

New number of shares = old number of shares \* ((A + C) \* (1 + B / A))

Divisor: increases

- *Stock distribution and rights (neither action is applicable to the other):*

Adjusted price = (closing price \* A + subscription price \* C) / (A + B + C)

New number of shares = old number of shares \* (A + B + C) / A

Divisor: increases

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  - The results to be obtained by the notes, the owner of the notes or any other person in connection with the use of The Dow Jones Euro STOXX 50<sup>®</sup> Index and the data included in The Dow Jones Euro STOXX 50<sup>®</sup> Index;
  - The accuracy or completeness of The Dow Jones Euro STOXX 50<sup>®</sup> Index and its data;
  - The merchantability and the fitness for a particular purpose or use of The Dow Jones Euro STOXX 50<sup>®</sup> Index and its data;
- STOXX and Dow Jones will have no liability for any errors, omissions or interruptions in The Dow Jones Euro STOXX 50<sup>®</sup> Index or its data; and
- Under no circumstances will STOXX or Dow Jones be liable for any lost profits or indirect, punitive, special or consequential damages or losses, even if STOXX or Dow Jones knows that they might occur.

The licensing agreement between Goldman Sachs Bank USA and STOXX is solely for their benefit and not for the benefit of the owners of the notes or any other third parties.

**Historical High, Low and Closing Levels of the Basket Indices**

The respective closing levels of the basket indices have fluctuated in the past and may, in

the future, experience significant fluctuations. Any historical upward or downward trend in the closing levels of the basket indices during any period shown below is not an indication that the basket indices are more or less likely to increase or decrease at any time during the life of your notes.

**You should not take the historical levels of the basket indices as an indication of their future performances.** We cannot give you any assurance that the future performance of the basket indices or the index stocks underlying those basket indices will result in your receiving an amount greater than the outstanding face amount of your notes on the stated maturity date. In light of the increased volatility currently being experienced by the financial services sector and U.S. and global securities markets, and recent market declines, the trends reflected in the historical performance of the basket indices may

be less likely to be indicative of the performance of the basket indices during the period from the trade date to each of the averaging dates and of the final basket level than would otherwise have been the case.

Neither we nor any of our affiliates make any representation to you as to the performance of the basket indices. The actual performance of the basket indices over the life of the offered notes, as well as the amount payable at maturity, may bear little relation to the historical levels shown below.

The tables below show the high, low and final closing levels of the basket indices for each of the four calendar quarters in 2007, 2008 and 2009 and the first calendar quarter of 2010 (through February 23, 2010). We obtained the closing levels listed in the tables below from Bloomberg Financial Services, without independent verification.

#### Quarterly High, Low and Closing Levels of the Dow Jones Industrial Average®

	<u>High</u>	<u>Low</u>	<u>Close</u>
<b>2007</b>			
Quarter ended March 31 .....	12,786.64	12,050.41	12,354.35
Quarter ended June 30 .....	13,676.32	12,382.30	13,408.62
Quarter ended September 30 .....	14,000.41	12,845.78	13,895.63
Quarter ended December 31 .....	14,164.53	12,743.44	13,264.82
<b>2008</b>			
Quarter ended March 31 .....	13,056.72	11,740.15	12,262.89
Quarter ended June 30 .....	13,058.20	11,346.51	11,350.01
Quarter ended September 30 .....	11,782.35	10,365.45	10,850.66
Quarter ended December 31 .....	10,831.07	7,552.29	8,776.39
<b>2009</b>			
Quarter ended March 31 .....	9,034.69	6,547.05	7,608.92
Quarter ended June 30 .....	8,799.26	7,761.60	8,447.00
Quarter ended September 30 .....	9,829.87	8,146.52	9,712.28
Quarter ended December 31 .....	10,548.51	9,487.67	10,428.00
<b>2010</b>			
Quarter ending March 31 (through February 23, 2010).....	10,725.43	9,908.39	10,282.40

#### Quarterly High, Low and Closing Levels of the Dow Jones Euro STOXX 50® Index

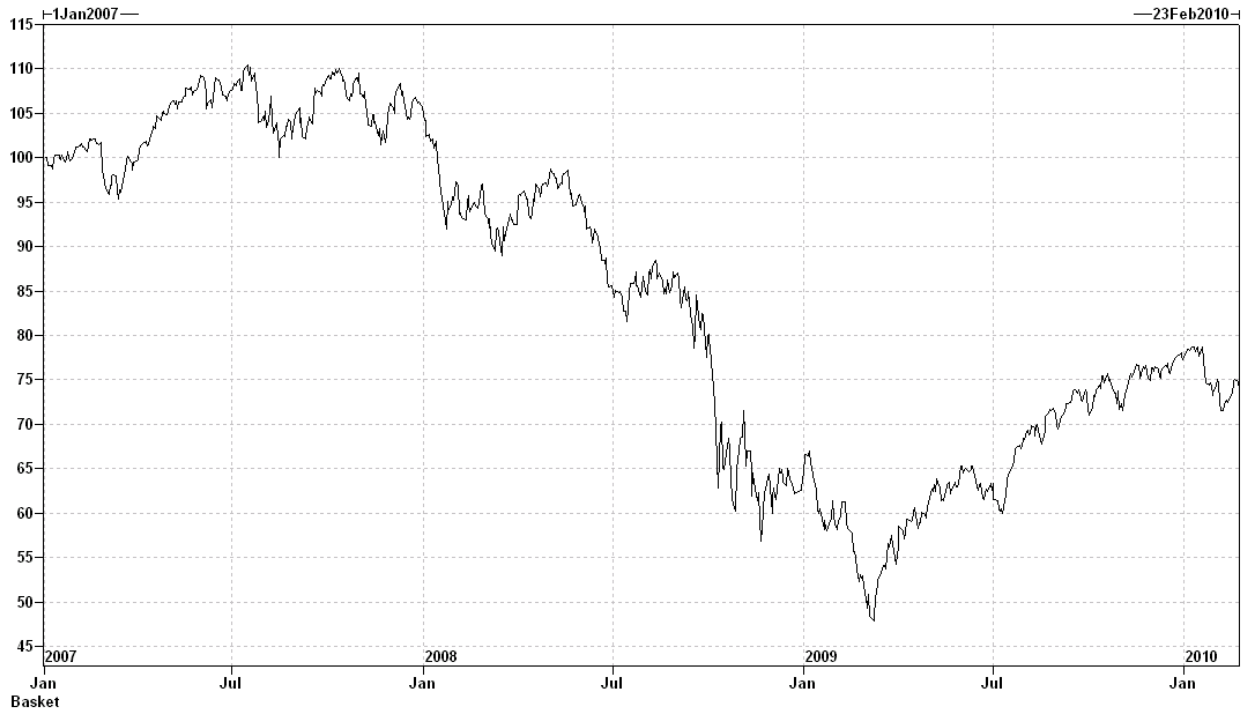
	<u>High</u>	<u>Low</u>	<u>Close</u>
<b>2007</b>			
Quarter ended March 31 .....	4,272.32	3,906.15	4,181.03
Quarter ended June 30 .....	4,556.97	4,189.55	4,489.77
Quarter ended September 30 .....	4,557.57	4,062.33	4,381.71
Quarter ended December 31 .....	4,489.79	4,195.58	4,399.72
<b>2008</b>			
Quarter ended March 31 .....	4,339.23	3,431.82	3,628.06
Quarter ended June 30 .....	3,882.28	3,340.27	3,352.81

	<u>High</u>	<u>Low</u>	<u>Close</u>
Quarter ended September 30 .....	3,445.66	3,000.83	3,038.20
Quarter ended December 31 .....	3,113.82	2,165.91	2,447.62
<b>2009</b>			
Quarter ended March 31 .....	2,578.43	1,809.98	2,071.13
Quarter ended June 30 .....	2,537.35	2,097.57	2,401.69
Quarter ended September 30 .....	2,899.12	2,281.47	2,872.63
Quarter ended December 31 .....	2,992.08	2,712.30	2,964.96
<b>2010</b>			
Quarter ending March 31 (through February 23, 2010).....	3,017.85	2,631.64	2,730.57

### Historical Basket Levels

The following table is based on the basket level for the period from January 1, 2007 through

February 23, 2010 assuming that the basket level is 100 on January 1, 2007. The basket level can increase or decrease due to changes in the levels of the basket indices.



## SUPPLEMENTAL DISCUSSION OF UNITED STATES FEDERAL INCOME TAX CONSEQUENCES

The following section supplements the discussion of United States federal income taxation in the accompanying offering circular and is subject to the limitations and exceptions set forth therein.

The following section is the opinion of Sullivan & Cromwell LLP, counsel to Goldman Sachs Bank USA. It applies to you only if you hold your notes as a capital asset 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 tax-exempt organization;
- a person that owns the notes as a hedge or that is hedged against interest rate risks;
- a person that owns the notes as part of a straddle or conversion transaction for tax purposes;
- or a United States holder whose functional currency for tax purposes is not the U.S. dollar.

This section is based on the United States 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.

*You should consult your tax advisor concerning the U.S. federal income tax, and other tax consequences of your investment in the notes, including the application of state, local or other tax laws and the possible effects of changes in federal or other tax laws.*

### 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 notes 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 section does not apply to you and you should refer to “—United States Alien Holders” below.

Your notes will be treated as a single debt instrument subject to special rules governing contingent payment obligations for United States federal income tax purposes. Under those rules, the amount of interest you are required to take into account for each accrual period will be determined by constructing a projected payment schedule for your notes and applying rules similar to those for accruing original issue discount on a hypothetical noncontingent debt instrument with that projected payment schedule. This method is applied first by determining the yield at which we would issue a noncontingent debt instrument with terms and conditions similar to your notes (the “comparable yield”) and then determining as of the issue date a payment schedule that would produce the comparable yield. These rules will generally have the effect of requiring you to include amounts in income in respect of your notes prior to your receipt of cash attributable to such income.

You are required to use the comparable yield and projected payment schedule that we compute in determining your interest accruals in respect of your notes, unless you timely disclose and justify on your federal income tax return the use of a different comparable yield and projected payment schedule.

We have determined that the comparable yield for the notes is equal to 2.8596% per annum, compounded semi-annually, with a projected payment at maturity of \$1,169.11 based on an investment of \$1,000. Based on this

comparable yield, if you are an initial holder that holds a note until maturity and you pay your taxes on a calendar year basis, you would be required

to report the following amounts as ordinary income from the note each year:

<u>Accrual Period</u>	<u>Interest Deemed to Accrue During Accrual Period (per \$1,000 note)</u>	<u>Total Interest Deemed to Have Accrued from Original Issue Date (per \$1,000 note) as of End of Accrual Period</u>
February 26, 2010 through December 31, 2010	\$24.29	\$24.29
January 1, 2011 through December 31, 2011	\$29.50	\$53.79
January 1, 2012 through December 31, 2012	\$30.35	\$84.14
January 1, 2013 through December 31, 2013	\$31.22	\$115.36
January 1, 2014 through December 31, 2014	\$32.12	\$147.48
January 1, 2015 through August 27, 2015	\$21.63	\$169.11

*The comparable yield and projected payment schedule are not provided to you for any purpose other than the determination of your interest accruals in respect of your notes, and we make no representation regarding the amount of contingent payments with respect to your notes.*

If you purchase your notes at a price other than its adjusted issue price determined for tax purposes, you must determine the extent to which the difference between the price you paid for your notes and its adjusted issue price is attributable to a change in expectations as to the projected payment schedule, a change in interest rates, or both, and reasonably allocate the difference accordingly. If the adjusted issue price of your notes is greater than the price you paid for your notes, you must make positive adjustments increasing the amount of interest that you would otherwise accrue and include in income each year, and the amount of ordinary income (or decreasing the amount of ordinary loss) recognized upon redemption or maturity by the amounts allocated to each of interest and projected payment schedule; if the adjusted issue price of your notes is less than the price you paid for your notes, you must make negative adjustments, decreasing the amount of interest that you must include in income each year, and the amount of ordinary income (or increasing the amount of ordinary loss) recognized upon redemption or maturity by the amounts allocated to each of interest and projected payment schedule. Adjustments allocated to the interest amount are not made until the date the daily portion of interest accrues.

The adjusted issue price of your notes will equal your notes' original issue price *plus* any interest deemed to be accrued on your notes (under the rules governing contingent payment obligations) as of the time you purchase your notes. The original issue price of your notes is equal to the amount paid for the notes at the original issuance.

Because any Form 1099-OID that you receive will not reflect the effects of positive or negative adjustments resulting from your purchase of notes at a price other than the adjusted issue price determined for tax purposes, you are urged to consult with your tax advisor as to whether and how adjustments should be made to the amounts reported on any Form 1099-OID.

You will recognize gain or loss upon the sale, exchange, redemption or maturity of your notes in an amount equal to the difference, if any, between the fair market value of the amount of cash you receive at such time and your adjusted basis in your notes. In general, your adjusted basis in your notes will equal the amount you paid for your notes, increased by the amount of interest you previously accrued with respect to your notes (in accordance with the comparable yield and the projected payment schedule for your notes), and increased or decreased by the amount of any positive or negative adjustment, respectively, that you are required to make if you

purchase your notes at a price other than the adjusted issue price determined for tax purposes.

Any gain you recognize upon the sale, exchange, redemption or maturity of your notes will be ordinary interest income. Any loss you recognize at such time will be ordinary loss to the extent of interest you included as income in the current or previous taxable years in respect of your notes, and thereafter, capital loss.

### 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 the notes 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.

Under United States federal income tax law, and subject to the discussion of backup withholding below, if you are a United States alien holder of notes, we and other U.S. payors generally will not be required to deduct United States withholding tax from payments of principal and interest to you if, in the case of payments of interest:

- 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;
- you are not a controlled foreign corporation that is related to us through stock ownership;
- 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;
- the U.S. payor does not have actual knowledge or reason to know that you are a United States person and:

- 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;
  - 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;
  - 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:
    - ◆ 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);
    - ◆ 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
    - ◆ 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);

- 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:
  - 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
  - to which is attached a copy of the Internal Revenue Service Form W-8BEN or acceptable substitute form; or

- 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.

Subject to the discussion of backup withholding below, if you are a United States alien holder of notes, 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 notes.

### **Backup Withholding and Information Reporting**

Please see the discussion under "United States Taxation – Backup Withholding and Information Reporting" on page 69 of the accompanying offering circular for a description of the applicability of the backup withholding and information reporting rules to payments made on your notes.

## **SUPPLEMENTAL PLAN OF DISTRIBUTION**

Goldman Sachs Bank USA has agreed to sell to Goldman, Sachs & Co., and Goldman, Sachs & Co. has agreed to purchase from Goldman Sachs Bank USA, the aggregate face amount of the offered notes specified on the front cover of this offering circular supplement. Goldman, Sachs & Co. proposes initially to offer the notes to the public at the original issue price set forth on the cover page of this offering circular supplement, and to certain securities dealers at such price less a concession not in excess of 3.25% of the face amount.

In the future, Goldman, Sachs & Co. or other affiliates of Goldman Sachs Bank USA may repurchase and resell the offered notes in market-making transactions, with resales being made at prices related to prevailing market prices at the time of resale or at negotiated prices. For

more information about the plan of distribution and possible market-making activities, see "Plan of Distribution" on page 72 of the accompanying offering circular.

### **Conflicts of Interest**

Goldman, Sachs & Co. is an affiliate of Goldman Sachs Bank USA and The Goldman Sachs Group, Inc. and, as such, has a "conflict of interest" in this offering within the meaning of NASD Rule 2720. Consequently, the offering is being conducted in compliance with the provisions of Rule 2720. Goldman, Sachs & Co. is not permitted to sell notes in this offering to an account over which it exercises discretionary authority without the prior specific written approval of the account holder.



**Goldman Sachs Bank USA**  
**Deposit Notes**  
unconditionally and irrevocably guaranteed by  
**The Goldman Sachs Group, Inc.**

**TERMS OF SALE**

The following terms may apply to the Deposit Notes (which we refer to as the “notes” in this offering circular) that Goldman Sachs Bank USA may offer to sell from time to time. The notes offered from time to time hereunder will be unconditionally and irrevocably guaranteed by The Goldman Sachs Group, Inc. as described in this offering circular. We refer to the guarantee by The Goldman Sachs Group, Inc. of the notes as the “guarantee”. This offering circular describes some of the general terms that may apply to the notes and the general manner in which they may be offered. The notes may be issued in one or more separate series. The specific terms of any notes to be offered, and the specific manner in which they may be offered, will be described in the applicable supplement to this offering circular.

- generally, stated maturity of 12 months or longer and, for indexed notes, stated maturity of six months or longer
- fixed or floating interest rate, zero-coupon or issued with original issue discount; a floating interest rate may be based on:
  - CD rate;
  - CMS rate;
  - CMT rate;
  - commercial paper rate;
  - EURIBOR;
  - federal funds rate;
  - LIBOR;
  - prime rate;
  - treasury rate; and/or
  - 11th district cost of funds rate
- amount of principal or interest may be determined by reference to one or more underlying indices, commodities, securities or other measures or instruments
- may be book-entry form only
- may be subject to redemption at the option of Goldman Sachs Bank USA or repayment at the option of the holder
- not amortized or subject to a sinking fund
- interest on fixed rate notes paid monthly, quarterly, semi-annually or annually
- interest on floating rate notes paid monthly, quarterly, semi-annually or annually
- unless otherwise specified in your supplement, denominations of \$10,000 and integral multiples of \$1,000 in excess thereof
- may be denominated in a currency other than U.S. dollars or in a composite currency
- settlement in immediately available funds
- unconditionally and irrevocably guaranteed by The Goldman Sachs Group, Inc.

Goldman Sachs Bank USA does not plan to list the notes for trading on any security exchange unless otherwise specified in the applicable supplement. We cannot assure you that the notes offered hereby will be sold or that there will be a secondary market for the notes. Even if a secondary market develops, the secondary market price you receive in exchange for your notes may be less than the price you paid for the notes.

**The notes evidence deposit liabilities of Goldman Sachs Bank USA, which are covered, with respect to the face amount and any accrued interest only (or in the case of zero-coupon or original issue discount notes, the original purchase price plus any accrued earnings only), by federal deposit insurance, up to a maximum limit of \$100,000 (\$250,000 through December 31, 2013) per individual or entity, or \$250,000 per participant in the case of certain retirement accounts, in all cases pursuant to the rules and regulations promulgated by the Federal Deposit Insurance Corporation (the “FDIC”), and subject to the limitations and restrictions set forth therein. This maximum limit is the total protection available for your notes, together with any other deposit accounts you may hold at Goldman Sachs Bank USA in the same title and capacity. In addition, the FDIC has taken the position that any supplemental payment on the notes referable to any underlying index, commodity, securities or other measures or instruments, if applicable, is not insured by the FDIC in most instances. Also, FDIC insurance does not cover any losses attributable to the sale of your notes prior to maturity and any secondary market premium paid by you above the face amount of the notes is not insured by the FDIC. Thus, the amount of any note that will be insured by the FDIC will depend upon**

the particular terms of the note, and may be less than the full amount that would otherwise be payable on the note at maturity. For more information about the limits of FDIC insurance that apply to the notes and the ranking of the notes relative to other obligations of Goldman Sachs Bank USA, see "Status of Deposit Notes".

The notes are not guaranteed under the FDIC's Temporary Liquidity Guarantee Program.

The notes have not been nor will they be registered under the Securities Act of 1933 (the "Securities Act"). The notes are being offered and sold in reliance upon an exemption from registration provided in Section 3(a)(2) of the Securities Act. The guarantee by The Goldman Sachs Group, Inc. has been registered under the Securities Act and the prospectus relating to the guarantee, dated March 19, 2009, has been filed with the Securities and Exchange Commission (the "SEC"). Information about The Goldman Sachs Group, Inc. on file with the SEC can be inspected and copied at the public reference facilities maintained by the SEC or through the SEC's website at [www.sec.gov](http://www.sec.gov).

Neither the SEC nor any other regulatory body has approved or disapproved of the notes or the guarantee or passed upon the accuracy or adequacy of this offering circular, which has not been filed with the SEC. Any representation to the contrary is a criminal offense.

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Goldman Sachs Bank USA may offer and sell the notes to or through one or more initial purchasers, dealers and agents, including the firm named below, or directly to purchasers, on a continuous or delayed basis.

Goldman Sachs Bank USA may use this offering circular in the initial sale of any notes. In addition, Goldman, Sachs & Co. or any other affiliate of Goldman Sachs Bank USA may use this offering circular in a market-making transaction in any note after its initial sale. **Unless the purchaser is informed otherwise in the confirmation of sale, this offering circular is being used in a market-making transaction.**

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**Goldman, Sachs & Co.**

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Offering Circular dated May 29, 2009.

Goldman, Sachs & Co. may act as agent for holders who wish to resell notes, but will have no obligation to do so. In addition, Goldman, Sachs & Co. and other affiliates of Goldman Sachs Bank USA may make a market in the notes and purchase and sell notes as principal, but neither Goldman, Sachs & Co. nor any such other affiliate of Goldman Sachs Bank USA will have any obligation to do so and any such market-making, if commenced, may be discontinued at any time without notice. In the event that Goldman Sachs Bank USA, Goldman, Sachs & Co. or any other affiliate of Goldman Sachs Bank USA purchases notes in the secondary market, these purchases may be subject to certain regulatory conditions, including, if Goldman Sachs Bank USA, Goldman, Sachs & Co. or any other affiliate of Goldman Sachs Bank USA purchases notes from a holder within six days after the date of initial issuance of such notes, downward adjustments to the purchase price to be paid to such holder to account for early withdrawal penalties imposed by Goldman Sachs Bank USA pursuant to Regulation D of the Board of Governors of the Federal Reserve System. Thus, if you sell a note to Goldman Sachs Bank USA or any of its affiliates shortly after you purchase and pay for it, you may receive a reduced price for your note. See “Plan of Distribution”.

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**IN MAKING AN INVESTMENT DECISION, INVESTORS MUST RELY ON THEIR OWN EXAMINATION OF GOLDMAN SACHS BANK USA, THE GOLDMAN SACHS GROUP, INC., THE FDIC AND THE TERMS OF THE OFFERED NOTES, INCLUDING THE MERITS AND RISKS INVOLVED. THE NOTES HAVE NOT BEEN RECOMMENDED BY ANY FEDERAL OR STATE SECURITIES COMMISSION OR OTHER REGULATORY AUTHORITY. FURTHERMORE, NO SUCH AUTHORITY HAS CONFIRMED THE ACCURACY OR DETERMINED THE ADEQUACY OF THIS DOCUMENT. THE NOTES HAVE NOT BEEN REGISTERED, AND THIS OFFERING CIRCULAR HAS NOT BEEN FILED, WITH THE SEC. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.**

**ANY PERSON MAKING THE DECISION TO ACQUIRE THE NOTES SHALL BE DEEMED, ON BEHALF OF ITSELF AND THE HOLDER, BY ACQUIRING AND HOLDING THE NOTES OR EXERCISING ANY RIGHTS RELATED THERETO, TO REPRESENT THAT:**

**(i) THE FUNDS THAT THE HOLDER IS USING TO ACQUIRE THE NOTES ARE NOT THE ASSETS OF AN EMPLOYEE BENEFIT PLAN SUBJECT TO TITLE I OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974, AS AMENDED (“ERISA”), A PLAN DESCRIBED IN AND SUBJECT TO SECTION 4975 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED (THE “CODE”), A GOVERNMENTAL PLAN SUBJECT TO ANY FEDERAL, STATE OR LOCAL LAW THAT IS SIMILAR TO THE PROVISIONS OF SECTION 406 OF ERISA OR SECTION 4975 OF THE CODE, OR AN ENTITY WHOSE UNDERLYING ASSETS INCLUDE “PLAN ASSETS” BY REASON OF DEPARTMENT OF LABOR REGULATION SECTION 2510.3-101, AS MODIFIED BY SECTION 3(42) OF ERISA, OR OTHERWISE; OR**

**(ii) (A) THE HOLDER 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 NOTES; (B) NONE OF THE PURCHASE, HOLDING OR DISPOSITION OF THE NOTES OR THE EXERCISE OF ANY RIGHTS RELATED TO THE NOTES WILL RESULT IN A NON-EXEMPT PROHIBITED TRANSACTION UNDER ERISA OR THE CODE (OR WITH RESPECT TO A GOVERNMENTAL PLAN, UNDER ANY SIMILAR APPLICABLE LAW OR REGULATION); AND (C) NEITHER GOLDMAN SACHS BANK USA NOR ANY OF ITS AFFILIATES IS A “FIDUCIARY” (WITHIN THE MEANING OF SECTION 3(21) OF ERISA OR, WITH RESPECT TO A GOVERNMENTAL PLAN, UNDER ANY SIMILAR APPLICABLE LAW OR REGULATION) WITH RESPECT TO THE PURCHASER OR HOLDER IN CONNECTION WITH SUCH PERSON’S ACQUISITION, DISPOSITION OR HOLDING OF THE NOTES, OR AS A RESULT OF ANY EXERCISE BY GOLDMAN SACHS BANK USA OR ANY OF ITS AFFILIATES OF ANY RIGHTS IN CONNECTION WITH THE NOTES, AND NO ADVICE PROVIDED BY GOLDMAN SACHS BANK USA 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 NOTES AND THE TRANSACTIONS CONTEMPLATED WITH RESPECT TO THE NOTES.**

## **AVAILABLE INFORMATION**

### **Information about Goldman Sachs Bank USA**

Goldman Sachs Bank USA submits quarterly to its primary federal regulator certain reports called “Consolidated Reports of Condition and Income” (the “call reports”) on Federal Financial Institutions Examination Council (“FFIEC”) Form 031. Each call report consists of a balance sheet, income statement, changes in equity capital and other supporting schedules as of the end of the period to which such call report relates. The call reports are prepared in accordance with generally accepted accounting principles; however, reporting classifications used in the preparation of the reports differ, in some cases, from reporting classifications that are used to prepare the consolidated financial statements of The Goldman Sachs Group, Inc. The call reports are not audited. While the call reports are supervisory and regulatory documents, not primarily accounting documents, and do not provide a complete range of financial disclosure about Goldman Sachs Bank USA, the call reports nevertheless provide important information concerning the financial condition and results of operations of Goldman Sachs Bank USA. Certain portions of the call reports are not publicly available. The publicly available portions of each call report filed by Goldman Sachs Bank USA for the quarterly periods in the years ended December 31, 2008, December 31, 2007 and December 31, 2006, and any amendment or supplement thereto, are incorporated by reference into this offering circular. The publicly available portions of any call report filed by Goldman Sachs Bank USA with the FDIC subsequent to the date of this offering circular and until we complete our offering of the notes, or if later, the date on which any of our affiliates ceases offering and selling the notes, shall be incorporated by reference into this offering circular from the date of the filing of such call report. The publicly available portions of the call reports of Goldman Sachs Bank USA are on file with, and publicly available upon written request to, the FDIC, 3501 North Fairfax Drive, Room E-1002, Arlington, Virginia 22226, Attention: Public Information Center, or by calling the FDIC Public Information Center at 877-275-3342 or 703-562-2200. The call reports are also available on the Internet website of the FFIEC at <https://cdr.ffiec.gov/public>.

### **Information about The Goldman Sachs Group, Inc.**

In addition to the call reports referred to above, this offering circular also incorporates by reference documents that have been filed previously (or may be filed in the future) with the SEC by The Goldman Sachs Group, Inc., the parent company of Goldman Sachs Bank USA, and we encourage you to review them. For more information, please see “The Guarantee and The Guarantee Agreement” below.

Because we are incorporating by reference future filings with the SEC and future call reports, this offering circular is continually updated and those future filings may modify or supersede some of the information included in or incorporated by reference into this offering circular.

## **NOTICE TO INVESTORS**

The notes have not been nor will they be registered under the Securities Act. The notes are being offered and sold in reliance upon an exemption from registration provided in Section 3(a)(2) of the Securities Act and thus are not entitled to the protections of the Securities Act that would apply if the notes were registered. The guarantee has been registered under the Securities Act and the prospectus relating thereto, dated March 19, 2009, has been filed with the SEC.

When you invest in a note, you are making an investment in a security of Goldman Sachs Bank USA (i.e., the notes) as well as a security of The Goldman Sachs Group, Inc. (i.e., the guarantee as it applies to the notes). Thus, you should consider the merits and risks of investing in securities of both companies.

## **GOLDMAN SACHS BANK USA**

Goldman Sachs Bank USA, a New York State-chartered bank and a member of the Federal Reserve System and the FDIC, is regulated by the Board of Governors of the Federal Reserve System (the “Federal Reserve Board”) and the New York State Banking Department. Goldman Sachs Bank USA was formed in November 2008 through the merger of The Goldman Sachs Group, Inc.’s existing Utah industrial bank (named Goldman Sachs Bank USA) into its New York limited purpose trust company, with

the surviving company taking the name Goldman Sachs Bank USA. Concurrently with this merger, The Goldman Sachs Group, Inc. contributed subsidiaries with an aggregate of \$117.16 billion of assets into Goldman Sachs Bank USA (which brought total assets in Goldman Sachs Bank USA to \$145.06 billion as of November 2008). As a result, a number of The Goldman Sachs Group, Inc.'s businesses are now conducted partially or entirely through Goldman Sachs Bank USA, including: bank loan trading and origination; interest rate, credit, currency and other derivatives; leveraged finance; commercial and residential mortgage origination, trading and servicing; structured finance; and agency lending, custody and hedge fund administration services. The businesses conducted through Goldman Sachs Bank USA are subject to regulation by the Federal Reserve Board, the New York State Banking Department and the FDIC. The notes will be issued by the Bank through its branch in New York.

As of April 27, 2009, Goldman Sachs Bank USA's long-term bank deposit rating, long-term issuer rating and short-term bank deposit rating by Moody's Investors Service are Aa3, Aa3 and P-1, respectively. Ratings are subject to change at any time without notice from Goldman Sachs Bank USA.

## **THE GOLDMAN SACHS GROUP, INC.**

The Goldman Sachs Group, Inc. is a leading global financial services firm providing investment banking, securities and investment management services to a substantial and diversified client base that includes corporations, financial institutions, governments and high-net-worth individuals. Founded in 1869, the firm is headquartered in New York and maintains offices in London, Frankfurt, Tokyo, Hong Kong and other major financial centers around the world.

On September 21, 2008, The Goldman Sachs Group, Inc. became a bank holding company under the U.S. Bank Holding Company Act of 1956, and the Federal Reserve Board became its primary federal regulator.

Because The Goldman Sachs Group, Inc. is a holding company, its ability to perform its obligations under the guarantee will depend in part on its ability to participate in distributions of assets from its subsidiaries. We discuss these matters, as well as the terms of the guarantee, under "The Guarantee and The Guarantee Agreement" below.

## **SUPERVISION AND REGULATION**

### **General**

As a New York State-chartered bank, Goldman Sachs Bank USA is supervised and examined by the New York State Banking Department. Goldman Sachs Bank USA is a member bank of the Federal Reserve System and, as such, is also regulated by the Federal Reserve Board and supervised and examined by the Federal Reserve Bank of New York. The deposits of Goldman Sachs Bank USA are insured up to the applicable limits by the FDIC. As a result, Goldman Sachs Bank USA is also subject to certain regulations of the FDIC. The Federal Reserve Board's policies and regulations also influence, directly or indirectly, the rates of interest paid by commercial banks on their time and savings deposits. The nature and impact on Goldman Sachs Bank USA of future changes in economic conditions and monetary and fiscal policies, both foreign and domestic, are not predictable.

For a discussion of the material elements of the regulatory framework applicable to Goldman Sachs Bank USA and The Goldman Sachs Group, Inc., please also refer to The Goldman Sachs Group, Inc.'s Annual Report on Form 10-K for the fiscal year ended November 28, 2008 and any subsequent reports filed with the SEC, which are incorporated by reference in this offering circular.

### **Depositor Preference**

Under the Federal Deposit Insurance Act (the "FDIA"), in the event of a liquidation or other resolution of an insured depository institution, the claims of holders (including the FDIC, as the subrogee of such holders) of deposit liabilities of such an institution (including the notes), although subordinated in right to the claims of a receiver of such bank for administrative expenses, are entitled to priority over the claims of general unsecured non-depositor creditors of such institution. By the terms of such law, the federal

depositor preference statute does not supersede the law of any state, except to the extent such state law is inconsistent with such statute, and then only to the extent of such inconsistency.

### **Payments of Uninsured Deposits by the FDIC in Connection with the Insolvency of an Insured Depository Institution**

If Goldman Sachs Bank USA becomes insolvent and the FDIC is appointed its conservator or receiver, the amount actually paid by the FDIC in this capacity on the claims of holders of the notes in excess of the amount insured by the FDIC and paid under FDIC insurance would depend upon, among other factors, the amount of conservatorship or receivership assets available for the payment of claims of deposit liabilities. See “—Depositor Preference” above and “Status of Deposit Notes” below.

Although the notes provide for the acceleration of the maturity of the notes upon certain events of insolvency of Goldman Sachs Bank USA, the FDIC as conservator or receiver may enforce most types of contracts, including the notes, pursuant to their terms, notwithstanding any such acceleration provision. In addition, under the FDIA, no person may exercise any right to accelerate or declare any event of default under certain contracts to which a depository institution is a party (which may include the notes) or obtain possession of or exercise any control over any property of the institution, without the consent of the conservator or receiver, as appropriate, during the 45-day period beginning on the date of the appointment of the conservator, or during the 90-day period beginning on the date of the appointment of the receiver, as applicable. The FDIC as conservator or receiver may also transfer to a new obligor any of Goldman Sachs Bank USA assets and liabilities, including the notes, without the approval of Goldman Sachs Bank USA’s creditors, including holders of the notes.

In its resolution of the problems of an insured depository institution in default or in danger of default, the FDIC is generally obligated to satisfy its obligations to insured depositors at the least possible cost to the deposit insurance fund. In addition, the FDIC may not take any action that would have the effect of increasing the losses to the deposit insurance fund by protecting depositors for more than the insured portion of deposits. The FDIA authorizes the FDIC to settle all uninsured and unsecured claims in the insolvency of an insured bank by making a final settlement payment after the declaration of insolvency. Such a payment would constitute full payment and disposition of the FDIC’s obligations to claimants. The rate of such final settlement payment is to be a percentage rate determined by the FDIC reflecting an average of the FDIC’s recovery experience for the receivership.

Each insured depository institution “controlled” (as defined in the U.S. Bank Holding Company Act of 1956) by the same bank holding company can be held liable to the FDIC for any loss incurred, or reasonably expected to be incurred, by the FDIC due to the default of any other insured depository institution controlled by that holding company and for any assistance provided by the FDIC to any of those banks that is in danger of default. Such a “cross-guarantee” claim against a depository institution is generally superior in right of payment to claims of the holding company and its affiliates against that depository institution. At this time, The Goldman Sachs Group, Inc. controls only one insured depository institution for this purpose, namely Goldman Sachs Bank USA. However, if, in the future, The Goldman Sachs Group, Inc. were to control other insured depository institutions, such cross-guarantee would apply to all such insured depository institutions.

### **Other Regulatory Considerations**

For a discussion of other regulatory considerations affecting Goldman Sachs Bank USA and The Goldman Sachs Group, Inc., refer to The Goldman Sachs Group, Inc.’s most recent Annual Report on Form 10-K and the other documents filed by The Goldman Sachs Group, Inc. with the SEC, which are incorporated herein by reference as described under “Available Information” above and “The Guarantee and The Guarantee Agreement” below.

### **STATUS OF DEPOSIT NOTES**

Goldman Sachs Bank USA is a member of the FDIC, an independent agency of the United States government established in 1933 to insure bank deposits and thereby help maintain sound conditions in the nation’s banking system. The FDIC pays the claims of depositors of a failed bank (up to a maximum

limit of \$100,000 per depositor (\$250,000 through December 31, 2013) per individual or entity, or in the case of deposits in certain retirement accounts, effective April 1, 2006, up to a maximum limit of \$250,000 per participant), from a deposit insurance fund that is supported by assessments against the FDIC's member banks. Any accounts or deposits a holder maintains directly with Goldman Sachs Bank USA in the same legal capacity as such holder maintains its notes would be aggregated with such notes for purposes of the \$100,000 (\$250,000 through December 31, 2013) limit or the \$250,000 per participant limit in the case of certain retirement accounts, as applicable. In addition, under applicable law, in the event of a liquidation or other resolution of an insured bank such as Goldman Sachs Bank USA, the claims of holders of deposit liabilities of such bank, although subordinated in right to the claims of a receiver of such bank for administrative expenses, are entitled to priority over the claims of general unsecured non-depositor creditors of such bank.

### **Applicability of FDIC Insurance to Future Payments and Other Supplemental Payments**

**The notes evidence deposit liabilities of Goldman Sachs Bank USA and are insured, with respect to the face amount and any accrued interest only (or in the case of zero-coupon or original issue discount notes, the original purchase price plus any accrued earnings only), up to applicable limits by the FDIC and entitled to priority over the claims of general unsecured non-depositor creditors of Goldman Sachs Bank USA in the event of a liquidation or other resolution of Goldman Sachs Bank USA; however, the ultimate determination of the insurability and priority of the notes would be made by the FDIC in response to claims of depositors. In addition, the availability of FDIC insurance to an owner of a beneficial interest in a global note representing book-entry notes may be dependent upon, among other things, whether such interest and any intermediary interests are accurately and adequately disclosed on the records of the depository, participants and persons that hold interests through participants. Accordingly, no assurance can be given as to the availability of FDIC insurance to owners of a beneficial interest in global notes.**

For the purposes of calculating the insured amount with respect to zero-coupon or original issue discount notes, the amount insured (subject to the applicable limit) will be the original purchase price plus the amount of earnings accrued to the date of default of Goldman Sachs Bank USA, calculated by compounding interest annually at the rate necessary to increase the original purchase price to the maturity value over the life of the notes.

Although FDIC insurance coverage includes both principal and any accrued interest to the date of default of Goldman Sachs Bank USA (or in the case of zero-coupon or original issue discount notes, the original purchase price plus any accrued earnings only), subject to the applicable limit, if the FDIC was appointed conservator or receiver of Goldman Sachs Bank USA prior to the maturity of the notes, the FDIC has taken the position that any supplemental payment on the notes referable to any underlying index, commodity, securities or other measures or instruments, if applicable, between the date of deposit and the date the FDIC was appointed receiver or conservator is not insured because such supplemental payment is not calculated until the maturity of the notes and would not be reflected as accrued interest on the books of Goldman Sachs Bank USA at the time of such appointment. Although the notes provide for the acceleration of the maturity of the notes upon certain events of insolvency of Goldman Sachs Bank USA, the FDIC may enforce the original terms of the notes notwithstanding any such acceleration provision. Thus, if the amount payable on any note at maturity is to be determined by reference to any index, commodity, securities or other measures or instruments, the amount insured by the FDIC with respect to that note may be substantially less than the amount that would otherwise be payable on the note at maturity (and could be less than the applicable FDIC insurance limits). Any amounts payable on the notes in respect of any redemption or repurchase option or upon any acceleration of maturity, to the extent that such payments exceed the principal and any accrued interest, will not be covered by FDIC insurance. In addition, the FDIC takes the position that any secondary market premium paid by you above the face amount of the notes is not insured by the FDIC. **If you sell your notes prior to maturity, FDIC insurance will not cover any resulting losses.**

**For the reasons described above, the maximum amount of any note that will be insured by the FDIC will depend in part on the particular terms of the note and may be substantially less than the amount otherwise payable on the note at maturity (and could be less than the applicable FDIC insurance limits). You should refer to the applicable supplement to this offering circular for a**

**description of the particular terms of your note in order to determine the maximum insured amount.**

Goldman Sachs Bank USA will not be obligated to make any payments to any holder in satisfaction of any loss such holder might incur, including losses that result from (i) a delay in insurance payouts applicable to its notes, (ii) its receipt of a decreased rate of return on the reinvestment of the proceeds received as a result of a payment on the notes prior to its stated maturity or (iii) payment in cash of the face amount and any accrued interest (or in the case of zero-coupon or original issue discount notes, the original purchase price plus any accrued earnings only) prior to maturity in connection with the liquidation of an insured institution or the assumption of all or a portion of its deposit liabilities at a lower interest rate.

No broker will be obligated to any holder for amounts not covered by FDIC insurance nor will they be obligated to make any payments to any holder in satisfaction of any loss such holder might incur, including losses that result from (i) a delay in insurance payouts applicable to its notes, (ii) its receipt of a decreased rate of return on the reinvestment of the proceeds received as a result of a payment on the notes prior to its stated maturity, (iii) payment in cash of the face amount and any accrued interest (or in the case of zero-coupon or original issue discount notes, the original purchase price plus any accrued earnings only) prior to maturity in connection with the liquidation of an insured institution or the assumption of all or a portion of its deposit liabilities at a lower interest rate or (iv) its receipt of a decreased rate of return as compared to the terms of the notes.

In the event Goldman Sachs Bank USA's status as an insured depository institution is terminated by the FDIC or Goldman Sachs Bank USA, the insured deposits of each depositor in Goldman Sachs Bank USA on the date of such termination, less all subsequent withdrawals from such deposits by such depositor, will continue to be insured for a period of at least six months or up to two years, within the discretion of the FDIC.

**FDIC Insurance in Cases of Merger or Consolidation**

If the notes or other deposits of a holder at Goldman Sachs Bank USA are assumed by another depository institution pursuant to a merger or consolidation, such notes or deposits will continue to be separately insured from the deposits that such holder might have established with the acquirer until at least the expiration of a six-month grace period from the date of the acquisition. Such notes or deposits of a holder at Goldman Sachs Bank USA would be separately insured until the earliest maturity date after the end of the six-month grace period. Any such notes that mature during the six-month grace period and are renewed for the same term and in the same dollar amount (either with or without accrued interest, if any) would continue to be separately insured until the first maturity date after the six-month grace period. If such notes mature during the six-month grace period and are renewed on any other basis, they would be separately insured only until the end of the six-month grace period. Thereafter, any assumed deposits will be aggregated with the existing deposits with the acquirer held in the same legal capacity for purposes of FDIC insurance. Any deposit opened at the acquired institution after the acquisition will be aggregated with deposits established with the acquirer for purposes of FDIC insurance.

In the event Goldman Sachs Bank USA merges, consolidates or sells its assets substantially as an entirety and the successor entity is not an insured depository institution, FDIC insurance on the notes will be terminated and the notes will be redeemed as described under "Description of the Notes We May Offer—Redemption and Repayment" below. The payment amount you receive upon a redemption due to the termination of FDIC insurance may be less than the amount you would have received on the stated maturity date.

**Aggregation of Accounts: Applicability of FDIC Insurance, Examples of Ownership Determination**

**Each holder is responsible for monitoring the total amount of its deposits in order to determine the extent of FDIC insurance coverage available to it on such deposits, including the notes. In circumstances in which FDIC insurance coverage is needed, (a) the FDIC, in its corporate capacity as insurer, will not be responsible for the uninsured portion of the notes or any other deposits, (b) Goldman Sachs Bank USA will not be responsible for the determination of the insured portion of the notes or any other deposits and (c) no broker will be responsible for any**

**insured or uninsured portion of the notes or any other deposits. Persons considering the purchase, ownership or disposition of the notes should consult their legal advisors concerning the applicability of FDIC insurance to the notes.**

For purposes of determining the amount of deposits held in a bank by a depositor, the FDIC's current regulations provide standards for aggregating all deposits held by a person in the same right and capacity and for allocating the beneficial ownership of deposits registered in the name of certain types of collective entities such as pension funds.

Any accounts or deposits a holder maintains directly with Goldman Sachs Bank USA in the same legal capacity as such holder maintains its notes would be aggregated with such notes for purposes of the \$100,000 (\$250,000 through December 31, 2013) per individual or entity limit or the \$250,000 per participant limit in the case of certain retirement accounts, as applicable.

The application of the FDIC insurance limitation per depository institution in certain common factual situations is illustrated below:

*Individual Customer Accounts.* Funds owned by an individual and held in an account in the name of an agent or nominee of such individual are not treated as owned by the agent or nominee, but are added to other deposits of such individual held in the same legal capacity and are insured up to \$100,000 (\$250,000 through December 31, 2013) in the aggregate.

*Custodial Accounts.* Funds in accounts held by a custodian, guardian or conservator (for example, under the Uniform Gifts to Minors Act) are not treated as owned by the custodian, but are added to other deposits of the minor or other beneficiary held in the same legal capacity and are insured up to \$100,000 (\$250,000 through December 31, 2013) in the aggregate.

*Joint Accounts.* The interests of each co-owner in funds in an account held under any form of joint ownership valid under applicable state law may be insured up to \$100,000 (\$250,000 through December 31, 2013) in the aggregate, separately and in addition to the \$100,000 (\$250,000 through December 31, 2013) allowed on other deposits individually owned by any of the co-owners of such account (hereinafter referred to as a "joint account"). Joint accounts will be insured separately from such individually owned accounts only if each of the co-owners is an individual person and has a right of withdrawal on the same basis as the other co-owners. If the joint account meets the foregoing criteria then it shall be deemed to be jointly owned; *provided* that the account records of Goldman Sachs Bank USA are clear and unambiguous as to the ownership of the account. However, if the account records are ambiguous or unclear as to the manner in which the account is owned, then the FDIC may consider evidence other than such account records to determine ownership. The names of two or more persons on a deposit account shall be conclusive evidence that the account is a joint account unless the deposit records as a whole are ambiguous and some other evidence indicates that there is a contrary ownership capacity.

In the event an individual has an interest in more than one joint account and different co-owners are involved, his interest in all of such joint accounts (subject to the limitation that such individual's insurable interest in any one account may not exceed \$100,000 (\$250,000 through December 31, 2013) divided by the number of owners of such account) is then added together and insured up to \$100,000 (\$250,000 through December 31, 2013) in the aggregate, with the result that no individual's insured interest in the joint account category can exceed \$100,000 (\$250,000 through December 31, 2013). For FDIC insurance purposes, the co-owners of any joint account are deemed to have equal interests in the joint account unless otherwise stated in Goldman Sachs Bank USA's records.

*Entity Accounts.* The deposit accounts of any corporation, partnership or unincorporated association that is operated primarily for some purpose other than to increase FDIC insurance are added together and insured up to \$100,000 (\$250,000 through December 31, 2013) in the aggregate per depository institution.

*Revocable Trust Accounts.* Funds owned by an individual and deposited into a deposit account with respect to which the individual evidences an intention that upon his/her death the funds will belong to a

natural person, charity or other nonprofit (each, a “qualifying beneficiary”) are insured up to \$100,000 (\$250,000 through December 31, 2013) as to each qualifying beneficiary, separately from any other deposit accounts of the owner or any other qualifying beneficiary. The owner’s intention must be manifested in the title of the account, by using such terms as “in trust for” or “payable upon death to”, and the qualifying beneficiaries must be named in the deposit account records of the depository institution. A joint revocable trust account established by a husband and wife that names the husband and wife as sole beneficiaries will be treated as a joint account and insured as described above under “— *Joint Accounts.*”

*Irrevocable Trust Accounts.* Funds in an account for an irrevocable trust (as determined under applicable state law) will be insured for up to \$100,000 (\$250,000 through December 31, 2013) for the interest of each beneficiary, provided that (i) the insured bank’s deposit account records disclose the existence of the trust relationship, (ii) the beneficiaries and their interests in the trust are identifiable from the bank’s deposit account records, or from the trustee’s records, (iii) the beneficiary’s interest in the account is non-contingent (i.e., capable of determination without evaluation of contingencies) and (iv) the trust is valid under state law. The FDIC insurance of each beneficiary’s interest is separate from the coverage provided for other accounts maintained by the beneficiary, the grantor, the trustee or beneficiaries. The interests of a beneficiary in all irrevocable trust accounts at Goldman Sachs Bank USA created by the same grantor will be aggregated and insured up to \$100,000 (\$250,000 through December 31, 2013). When a bankruptcy trustee commingles the funds of two or more bankruptcy estates in the same trust account, the funds of each bankruptcy estate will receive separate pass-through coverage for up to \$100,000 (\$250,000 through December 31, 2013).

*Retirement Plans and Accounts—General.* The notes may be held in retirement plans and accounts. There are many types of plans and accounts. The amount of FDIC insurance each will be entitled to and whether the notes held by the plan or account will be considered separately or aggregated with the notes of Goldman Sachs Bank USA held in other plans or accounts in determining the amount of FDIC insurance such accounts are entitled to will vary depending on the type of plan or account. It is therefore important to understand the type of plan or account holding the notes. Moreover, the Federal Deposit Insurance Corporation Improvement Act of 1991 (“FDICIA”) and the Federal Deposit Insurance Reform Act of 2005 (the “Reform Act”) and regulations enacted by the FDIC to implement this law have made changes to the FDIC insurance coverage of deposits held in retirement plans and accounts. The following sections entitled “— *Individual Retirement Accounts*” and “— *Employee Benefit Plans*” discuss the rules that apply to deposits of retirement plans and accounts.

*Individual Retirement Accounts.* Deposits made in a depository institution in connection with any individual retirement account (“IRAs”) described in section 408(a) of the Internal Revenue Code of 1986, as amended (the “Code”) are insured, in aggregate, for up to \$250,000 as of April 1, 2006. However, deposits in IRAs are aggregated with the depositor’s interests in deposits, including the notes, of eligible deferred compensation programs described in section 457 of the Code, and with individual account plans as defined in section 3(34) of the Employee Retirement Income Security Act of 1974, as amended (“ERISA”) and plans described in section 401(d) of the Code to the extent that participants and beneficiaries under such plans have the right to direct the investment of assets held in individual accounts maintained on their behalf by the plans, in applying the \$250,000 FDIC insurance coverage limit. As discussed in “United States Taxation,” you cannot use the tax summaries herein for the purpose of avoiding penalties that may be asserted against you under the Code.

*Employee Benefit Plans.* With certain limitations and exceptions, any deposit of an employee benefit plan (as defined below) is insured, on a “pass-through” basis, up to \$250,000 for the vested and noncontingency interest in such deposit of each employee benefit plan participant, provided that the records of the depository institution indicate that the deposit is held for the benefit of each employee benefit plan participant, and provided further that the employee benefit plan participants can be identified from the records of the employee benefit plan administrator. This FDIC insurance coverage is separate from, and in addition to, the coverage to which each participant is entitled for deposits held in the same depository institution but in other capacities. As discussed in “United States Taxation,” you cannot use the tax summaries herein for the purpose of avoiding penalties that may be asserted against you under the Code.

For this purpose, the term “employee benefit plan” has the meaning given such term in section 3(3) of ERISA and also includes any plan described in section 401(d) of the Code, and any eligible deferred compensation plan described in section 457 of the Code.

“Pass-through” insurance means that, instead of the employee benefit plan’s deposits at one depository institution being entitled to only \$250,000 of insurance in total per institution, each participant in the Employee Benefit Plan is entitled to insurance of his or her interest in the employee benefit plan’s deposits of up to \$250,000 per institution (subject to the exceptions and limitations noted below).

This general rule regarding pass-through insurance is subject to the following limitations and exceptions:

- *Total Coverage Might Not Equal \$250,000 Times Number of Participants.* Each deposit held by an employee benefit plan may not necessarily be insured for an amount equal to the number of participants multiplied by \$250,000. For example, suppose an employee benefit plan owns \$500,000 in the notes at Goldman Sachs Bank USA. Suppose, further, that the employee benefit plan has two participants, one with a vested noncontingent interest of \$300,000 and one with a vested non-contingent interest of \$200,000. The individual with the \$300,000 interest would be insured up to the \$250,000 limit and the individual with the \$200,000 interest would be insured up to the full value of such interest.
- *Aggregation.* An individual’s non-contingent interests in funds deposited with the same depository institution by different employee benefit plans of the same employer or employee organization are aggregated for purposes of applying this pass-through \$250,000 per participant FDIC insurance limit, and are insured in aggregate only up to \$250,000 per participant.
- *Contingent Interests/Overfunding.* Any portion of an employee benefit plan’s deposits that is not attributable to the non-contingent interests of employee benefit plan participants is not eligible for pass-through FDIC insurance coverage, and is insured, in aggregate, only up to \$100,000.

The foregoing examples are based on rules issued by the FDIC, which rules are subject to change from time to time and in certain instances additional terms and conditions may apply which are not described above. Accordingly, such examples are qualified in their entirety by such rules, and the holder is urged to discuss with its attorney the insurance coverage afforded to any note that it may purchase. Additionally, questions about how the notes will be insured may be addressed to your broker. Holders may also write to the following address: FDIC Division of Supervision and Consumer Protection, Office of Consumer Affairs, 550 17th Street, N.W., Washington, D.C. 20429.

To the extent that a purchaser of the notes expects its beneficial interest in the notes to be fully covered, with respect to the principal amount and any accrued interest (or in the case of zero-coupon or original issue discount notes, the original purchase price plus any accrued earnings only) by FDIC insurance, such purchaser, by purchasing the notes, is deemed to represent to Goldman Sachs Bank USA and its broker that its beneficial interest (or if it is an agent, nominee, custodian or other person who is purchasing the notes for its beneficial owners, that each beneficial owner’s beneficial interest) in other deposits in Goldman Sachs Bank USA, when aggregated with the beneficial interest in the notes so purchased, to the extent that aggregation is required in determining insurance of accounts under the federal deposit insurance regulations, does not exceed the maximum limit of \$100,000 (\$250,000 through December 31, 2013) per individual or entity, or \$250,000 per participant in the case of certain retirement accounts as described above.

Under certain circumstances, if you become the owner of deposits at a depository institution because another depositor dies, beginning six months after the death of the depositor the FDIC will aggregate those deposits with any other time deposits or deposits that you own in the same legal ownership category at the depository institution. Examples of accounts that may be subject to this FDIC policy include joint accounts, “payable on death” accounts and certain trust accounts. The FDIC provides the six month “grace period” to permit you to restructure your deposits to obtain the maximum amount of FDIC insurance for which you are eligible.

As with all deposits, if it becomes necessary for FDIC insurance payments to be made on the notes, there is no specific time period during which the FDIC must make insurance payments available.

### **Establishing Ownership**

As explained above, the applicable maximum limit of FDIC insurance applies to the face amount and any accrued interest (or in the case of zero-coupon or original issue discount notes, the original purchase price plus any accrued earnings only) on all notes and other deposit accounts maintained by you at the Goldman Sachs Bank USA in the same legal ownership category. The records maintained by Goldman Sachs Bank USA and your broker regarding ownership of notes will be used to establish your eligibility for FDIC insurance payments. In addition, you may be required to provide certain documentation to the FDIC and to your broker before insurance payments are released to you. For example, if you hold notes as trustee for the benefit of trust participants, you may also be required to furnish an affidavit to that effect; you may be required to furnish other affidavits and provide indemnities regarding an insurance payment.

### **Consequences If the FDIC Transfers Your Account**

As an alternative to a direct FDIC insurance payment from the FDIC, the FDIC as conservator or receiver may also transfer to another insured depository institution any of the insolvent institution's assets and liabilities, including deposit liabilities such as the notes (or only the insured portion thereof), without the approval or consent of the beneficial owners of the notes. The transferee depository institution would be permitted to offer beneficial owners of the notes (or the insured portion thereof so transferred) the choice of (i) repayment of the amount so transferred or (ii) substitute terms which may be less favorable. If a note is paid off prior to its stated maturity date, either by a transferee depository institution or the FDIC, its beneficial owner may not be able to reinvest the funds at the same rate of return as the rate on the original note.

### **Subrogation Rights**

In the event of a liquidation or other resolution of Goldman Sachs Bank USA and payment on the notes by the FDIC under FDIC insurance, the FDIC will be subrogated to all rights of holders of the notes against Goldman Sachs Bank USA under the notes, including their rights against The Goldman Sachs Group, Inc. under the guarantee agreement, to the extent of such payment. The notes will be deposit liabilities of Goldman Sachs Bank USA, unconditionally and irrevocably guaranteed by The Goldman Sachs Group, Inc. pursuant to the guarantee. Except to the extent FDIC insurance is available from the FDIC, no entity other than Goldman Sachs Bank USA (or its receiver or conservator, if applicable, to the extent of any available remaining assets of Goldman Sachs Bank USA) or The Goldman Sachs Group, Inc. will have any obligation, contingent or otherwise, to make any payments in respect of the notes. See "The Guarantee and The Guarantee Agreement" below.

Goldman Sachs Bank USA, Goldman, Sachs & Co. and The Goldman Sachs Group, Inc. assume no responsibility for the effect of the FDIC's current regulations, or changes therein, upon the entitlement of any person to the benefits of FDIC insurance. If the amount of notes held by any person when added to any other deposits held by such person in the same right and capacity in Goldman Sachs Bank USA under the FDIC regulations, exceeds the maximum limit of \$100,000 (\$250,000 through December 31, 2013) per individual or entity, or \$250,000 per participant in the case of certain retirement accounts, the excess will not be insured by the FDIC.

### **USE OF PROCEEDS**

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

We will receive the net proceeds only from sales of the notes made in connection with their original issuance. We have not received, and do not expect to receive, any proceeds from resales of the notes by Goldman, Sachs & Co. or any of our other affiliates in market-making transactions. We expect our affiliates to retain the proceeds of their market-making resales and not to pay the proceeds to us.

## DESCRIPTION OF NOTES WE MAY OFFER

*Please note that in this section entitled “Description of Notes We May Offer”, references to “we”, “our” and “us” refer only to Goldman Sachs Bank USA and not to The Goldman Sachs Group, Inc.; references to “The Goldman Sachs Group, Inc.” refer only to The Goldman Sachs Group, Inc. and not to its consolidated subsidiaries. When we refer to “Goldman Sachs” in this offering circular, we mean The Goldman Sachs Group, Inc., together with its consolidated subsidiaries and affiliates. Also, in this section, references to “holders” mean those who own notes registered in their own names, on the books that we or the fiscal agent maintain for this purpose, and not those who own beneficial interests in notes registered in street name or in notes issued in book-entry form through The Depository Trust Company or another depository (such as Clearstream Banking, société anonyme, and Euroclear Bank SA/NV). Owners of beneficial interests in the notes should read the section below entitled “Legal Ownership and Book-Entry Issuance”.*

### Information About Our Deposit Notes

This section summarizes the material terms that will apply generally to the notes. Each particular note will have financial and other terms specific to it, and the specific terms of each note will be described in a supplement that will accompany this offering circular. Those terms may vary from the terms described here.

*As you read this section, please remember that the specific terms of your notes as described in your supplement will supplement and, if applicable, may modify or replace the general terms described in this section. If your supplement is inconsistent with this offering circular, your supplement will control with regard to your notes. Thus, the statements we make in this section may not apply to your notes.*

When we refer to your supplement, we mean the offering circular supplement and, if applicable, any pricing supplement describing the specific terms of the notes you purchase. The terms we use in any supplement that we also use in this document will have the meanings we give them in this offering circular, unless we say otherwise in your supplement.

### ***The Notes Will Be Issued Under the Fiscal Agency Agreement***

The notes are governed by a document called a fiscal agency agreement, dated as of April 29, 2009. The fiscal agency agreement is a contract between us and The Bank of New York Mellon, which will initially act as fiscal agent. The fiscal agent performs administrative duties for us, such as sending you interest payments and notices.

The notes are not registered under the Securities Act and are not entitled to the protections of the Securities Act that would apply if the notes were registered. In addition, the fiscal agency agreement is not required to be qualified under and is not covered by the protections of the Trust Indenture Act of 1939. The fiscal agent is acting as our agent and not as trustee or other fiduciary for the holders of the notes.

See “— Our Relationship with the Fiscal Agent” below for more information about the fiscal agent.

### ***We May Issue the Notes in Separate Series or Reopen a Series***

We may issue the notes in one or more series, as indicated in the relevant supplement. We may also reopen the notes of any series by issuing additional notes having the same terms and treating them as part of the same series. When we refer to the notes of any series, we mean only the notes of that series and not any other notes, including any deposit notes of other series.

Unless otherwise specified in the supplement by which a note is offered, each issuance of notes will be a single, distinct series of notes. We may issue notes in such amounts, at such times and on such terms as we wish. Each series of notes may differ from one another in their terms.

When we refer to the “notes” or “these notes”, we mean our deposit notes. When we refer to “your notes”, we mean only the notes you purchase and not any other notes, including any other notes of the same series.

### ***We May Issue Debt Securities***

The fiscal agency agreement permits us to issue debt securities from time to time.

### ***Amounts That We May Issue***

The fiscal agency agreement does not limit the aggregate amount of notes that we may issue. Nor does it limit the number of series or the aggregate amount of any particular series that we may issue. We may issue notes under the fiscal agency agreement at any time, in such amounts, at such times and on such terms as we wish, without your consent and without notifying you. Also, if we issue notes having the same terms in a particular offering, we may “reopen” that offering at any later time and offer additional notes having the same CUSIP number (or ISIN number), stated maturity, interest payment dates, if any, and other terms, except for the date of issuance and issue price.

Our affiliates may use this offering circular to resell notes in market-making transactions from time to time. We describe these transactions under “Plan of Distribution” below.

The fiscal agency agreement and the notes 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 notes or the fiscal agency agreement.

### ***How the Notes Rank Against Other Deposit Liabilities or Debts of Goldman Sachs Bank USA***

The notes evidence deposit liabilities of Goldman Sachs Bank USA, which are insured, with respect to the face amount and any accrued interest only (or in the case of zero-coupon or original issue discount notes, the original purchase price plus any accrued earnings only), up to the applicable limits by the FDIC. In the event of a liquidation or other resolution of Goldman Sachs Bank USA, the claims of holders of the notes, although subordinated in rights to the claims of a receiver of Goldman Sachs Bank USA for administrative expenses, are entitled to priority over the claims of general unsecured non-depositor creditors of Goldman Sachs Bank USA and subordinated creditors of Goldman Sachs Bank USA, if any; however, the ultimate determination of the priority of the notes would be made by the FDIC in response to claims of depositors.

In addition, the notes of any series will rank *pari passu* with all other deposit liabilities of Goldman Sachs Bank USA, including any notes of other series, except deposits which are required by law to be secured and subject to any statutory preference.

### ***This Section Entitled “Description of Notes We May Offer” Is Only a Summary***

The fiscal agency agreement and its associated documents, including your notes, contain the full legal text of the matters described in this section and your supplement. Copies of the fiscal agency agreement will be available for inspection at the corporate trust office of the fiscal agent in the Borough of Manhattan, The City of New York.

This section and your supplement summarize all the material terms of the fiscal agency agreement and your notes. They do not, however, describe every aspect of the fiscal agency agreement and your notes. For example, in this section and your supplement, we use terms that have been given special meaning in the fiscal agency agreement, but we describe the meaning of only the more important of those terms.

## **Features Common to All Notes**

### ***Principal Amount, Stated Maturity, Maturity and Original Issue Date***

The principal amount of a note means the principal amount payable at its stated maturity, unless that amount is not determinable, in which case the principal amount of a note is its face amount. Any notes owned by us or any of our affiliates are not deemed to be outstanding.

The term “stated maturity” with respect to any note means the day on which the principal amount of such note 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 notes. 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 note without specifying a particular payment, we mean the stated maturity or maturity, as the case may be, of the principal.

Unless otherwise specified in the applicable supplement, the amount you will be paid on your notes if held to their stated maturity date will be an amount not less than the face amount of such notes.

### ***Currency of Notes***

Amounts that become due and payable on your notes in cash will be payable in a currency, composite currency, basket of currencies or currency unit or units specified in your 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 notes will be U.S. dollars, unless your supplement states otherwise. Some notes may have different specified currencies for principal and interest. You will have to pay for your notes by delivering the requisite amount of the specified currency for the principal to Goldman, Sachs & Co. or another firm that we name in your supplement, unless other arrangements have been made between you and us or you and that firm. We will make payments on your notes in the specified currency, except as described below in “— Payment Mechanics for Notes”. See “Considerations Relating to Notes Denominated or Payable in or Linked to a Non-U.S. Dollar Currency” below for more information about risks of investing in notes of this kind.

### ***Governing Law***

The fiscal agency agreement is, and the notes will be governed by New York law.

## **Types of Notes**

We may issue any of the three types of notes described below. Notes may have elements of each of the three types of notes described below. For example, notes may bear interest at a fixed rate for some periods and at a floating rate in others. Similarly, notes may provide for a payment of principal at maturity linked to an index and also may bear interest at a fixed or floating rate.

### ***Fixed Rate Notes***

Notes of this type will bear interest at a fixed rate described in the applicable supplement, and as described below under “— Interest Rates”. This type includes zero coupon notes, which bear no interest and are instead issued at a price lower than the principal amount. See “— Original Issue Discount Notes” below for more information about zero coupon and other original issue discount notes.

If your notes are zero coupon notes, your supplement may specify the original issue discount and the information necessary to determine the accreted value. The accreted value will be (1) as of any date

prior to the stated maturity, an amount equal to the sum of (A) the original issue price of your notes and (B) the portion of the excess of the principal amount of your notes over the original issue price that shall have been accreted from the original issue price on a daily basis and compounded annually on a date specified in the applicable supplement, up to and including the stated maturity, at a rate that will be specified in the applicable supplement from the original issue date, computed on the basis of a 360-day year consisting of twelve 30-day calendar months; and (2) as of any date on or after the stated maturity, the principal amount of your notes.

### ***Floating Rate Notes***

Notes of this type will bear interest at rates that are determined by reference to an interest rate formula described in this offering circular or in the applicable supplement, and as described below under “— Interest Rates”. 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. The various interest rate formulas and these other features are described below in “— Interest Rates — Floating Rate Notes”. If your notes are floating rate notes, the formula and any adjustments that apply to the interest rate will be specified in your supplement.

### ***Indexed Notes***

Notes of this type provide that the principal amount payable at their 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 nonoccurrence of any event or circumstance;
- one or more indices; and/or
- one or more baskets of the items described above.

If you are a holder of indexed notes, you may receive an amount at maturity (including upon acceleration following an event of default) that is equal to or greater than the face amount of your notes 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.

Unless otherwise specified in your supplement, any indexed notes that we issue will be cash settled only.

If you purchase indexed notes, your 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 notes may be settled. We have initially appointed Goldman, Sachs & Co. as our calculation agent for any indexed notes. The calculation agent may exercise significant discretion in calculating amounts payable with respect to the indexed notes. We may specify a different calculation agent in your supplement. See “Considerations Relating to Indexed Notes” for more information about risks of investing in notes of this type.

### **Original Issue Discount Notes**

Fixed rate notes or floating rate notes may be original issue discount notes. Notes of this type are issued at a price lower than their principal amount and provide that, upon redemption or acceleration of their maturity, an amount less than their principal amount will be payable. Original issue discount notes

may be zero coupon notes. Notes issued at a discount to their principal may, for U.S. federal income tax purposes, be considered original issue discount notes, regardless of the amount payable upon redemption or acceleration of maturity. See “United States Taxation — United States Holders — Original Issue Discount” below for a brief description of the U.S. federal income tax consequences of owning original issue discount notes.

### **Information in the Supplement**

Your supplement will describe one or more of the following terms of your note:

- the aggregate principal amount of your notes;
- the stated maturity;
- the specified currency or currencies for principal and interest, if the specified currency is not U.S. dollars, certain other terms relating to your notes;
- the issue price at which we originally issue your notes, expressed as a percentage of the principal amount, and the original issue date;
- whether your notes are fixed rate notes, floating rate notes or indexed notes;
- if your notes are fixed rate notes, the rate per annum at which your notes will bear interest, if any, and the interest payment dates, if different from those stated below under “— Interest Rates — Fixed Rate Notes”;
- if your notes are floating rate notes, the interest rate basis, which may be one of the ten base rates described in “— Interest Rates — Floating Rate Notes” below or any other rate as specified in your supplement; any applicable index currency or index maturity, spread or spread multiplier or initial base rate, maximum rate or minimum rate; the interest reset, determination, calculation and payment dates; the day count convention used to calculate interest payments for any period; if the interest rate basis for your notes is the CMT rate, the designated CMT Reuters screen page; if the interest rate basis for your notes is the federal funds rate, whether the federal funds rate will be determined by reference to the federal funds (effective) rate or the federal funds open rate; the business days and the business day convention; and the calculation agent, all of which we describe under “— Interest Rates — Floating Rate Notes” below;
- if your notes are indexed notes, 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 whether your notes will be exchangeable for or payable in cash, securities of an issuer other than Goldman Sachs Bank USA or other property;
- if your notes are original issue discount notes, the yield to maturity;
- if applicable, the circumstances under which your notes 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), all of which we describe under “— Redemption and Repayment” below;
- the authorized denominations of your notes;
- the depository for your notes, if other than DTC, and any circumstances under which the holder may request notes in non-global form, if we choose not to issue your notes in book-entry form only;

- if applicable, the circumstances under which we will pay additional amounts on any notes held by a person who is not a United States person for tax purposes and under which we can redeem your notes if we have to pay additional amounts;
- the names and duties of any co-agents, depositaries, paying agents, transfer agents or registrars for your note;
- whether your notes will be listed on any national securities exchange, foreign securities exchange or interdealer quotation system; and
- any other terms of your notes, which could be different from those described in this offering circular.

### **Market-Making Transactions**

If you purchase your notes in a market-making transaction, you will receive information about the issue 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 notes that it has previously acquired from another holder. A market-making transaction in particular notes occurs after the original sale of the notes. In the event that we, Goldman, Sachs & Co. or any other affiliate of ours purchase notes in the secondary market, these purchases may be subject to certain regulatory conditions, including, if we or any of our affiliates purchase notes from you within six days after the date of initial issuance of those notes, downward adjustments to the purchase price to be paid to you to account for early withdrawal penalties imposed by us pursuant to Regulation D of the Federal Reserve Board. Thus, if you sell a note to us or any of our affiliates shortly after you purchase and pay for it, you may receive a reduced price for your note. See “Plan of Distribution” below.

### **Interest Rates**

This subsection describes the different kinds of interest rates that, subject to any laws or regulations requiring otherwise, may apply to your notes, if they bear interest.

#### **Fixed Rate Notes**

Fixed rate notes, except zero coupon notes, will bear interest from their original issue date or from the most recent date to which interest on the notes has been paid or made available for payment. Interest will accrue on the principal of fixed rate notes at the fixed rate per annum stated in your supplement, until the principal is paid or made available for payment. Unless otherwise specified in your supplement, interest on fixed rate notes will be payable semi-annually each May 15 and November 15, which will be the interest payment dates for fixed rate notes, and at maturity. For fixed rate notes that bear interest, each payment of interest due on an interest payment date or the 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 maturity. Subject to any laws or regulations requiring otherwise, we will compute interest on fixed rate notes on the basis of a 360-day year of twelve 30-day months (30/360 (ISDA) day count convention) as described below under “— Floating Rate Notes — Calculation of Interest”, unless your supplement provides that we will compute interest on a different basis. For fixed rate notes that bear interest, we will pay accrued interest as described under “— Payment Mechanics for Notes” below.

#### **Floating Rate Notes**

*In this subsection, we use several specialized terms relating to the manner in which floating interest rates are calculated. These terms appear in **bold, italicized** type the first time they appear, and we define these terms in “— Special Rate Calculation Terms” at the end of this subsection.*

Each floating rate note will bear interest from its original issue date or from the most recent date to which interest on the notes has been paid or made available for payment. Interest will accrue on the principal of a floating rate note at a rate per annum determined according to the interest rate formula stated in the applicable supplement, until the principal is paid or made available for payment. We will pay interest on floating rate notes in accordance with the timing, accrual, calculation and other provisions described below. We will make payments on those notes in the manner described below under “— Payment Mechanics for Notes”.

For each floating rate note, interest will accrue, and we will compute and pay accrued interest, as described under “— Payment Mechanics for Notes” below. In addition, the following will apply to floating rate notes.

**Base Rates.** We currently expect to issue floating rate notes that bear interest at rates based on one of the following base rates:

- CD rate;
- CMS rate;
- CMT rate;
- commercial paper rate;
- EURIBOR;
- federal funds rate;
- LIBOR;
- prime rate;
- treasury rate; and/or
- 11th district cost of funds rate.

We describe each of these base rates in further detail below in this subsection.

If you purchase floating rate notes, your supplement will specify the type of base rate that applies to your notes.

Interest payable on floating rate notes for any particular interest period will be calculated as described under “— Calculation of Interest” below.

**Initial Base Rate.** Unless otherwise specified in the applicable supplement, for any floating rate note, the base rate in effect from and including the original issue date to but excluding the first interest reset date will be the initial base rate. We will specify the initial base rate in the applicable supplement.

**Spread or Spread Multiplier.** In some cases, the base rate for floating rate notes may be adjusted:

- by adding or subtracting a specified number of basis points, called the spread, with one basis point being 0.01%; or
- by multiplying the base rate by a specified percentage, called the spread multiplier.

If you purchase floating rate notes, your supplement will specify whether a spread or spread multiplier will apply to your notes and, if so, the amount of the applicable spread or spread multiplier.

**Maximum and Minimum Rates.** The actual interest rate, after being adjusted by the spread or spread multiplier, may also be subject to either or both of the following limits:

- a maximum rate — i.e., a specified upper limit that the actual interest rate in effect at any time may not exceed; and/or
- a minimum rate — i.e., a specified lower limit that the actual interest rate in effect at any time may not fall below.

If you purchase floating rate notes, your supplement will specify whether a maximum rate and/or minimum rate will apply to your notes and, if so, what those rates are.

Whether or not a maximum rate applies, the interest rate on floating rate notes will in no event be higher than the maximum rate permitted by New York law, as it may be modified by U.S. law of general application. Under current New York law, the maximum rate of interest, with some exceptions, for any loan in an amount less than \$250,000 is 16% and for any loan in the amount of \$250,000 or more but less than \$2,500,000 is 25%, per year on a simple interest basis. These limits do not apply to loans of \$2,500,000 or more.

The rest of this subsection describes how the interest rate and the interest payment dates will be determined, and how interest will be calculated, on floating rate notes.

**Interest Reset Dates.** The rate of interest on floating rate notes will be reset, by the calculation agent described below, daily, weekly, monthly, quarterly, semi-annually or annually (each, an “**interest reset period**”). The date on which the interest rate resets and the reset rate becomes effective is called the interest reset date. Except as otherwise specified in the applicable supplement, the interest reset date will be as follows:

- for floating rate notes that reset daily, each **business day**;
- for floating rate notes that reset weekly and are not treasury rate notes, the Wednesday of each week;
- for treasury rate notes that reset weekly, the Tuesday of each week, except as otherwise described in the next to last paragraph under “— Interest Determination Dates” below;
- for floating rate notes that reset monthly, the third Wednesday of each month;
- for floating rate notes that reset quarterly, the third Wednesday of March, June, September and December of each year;
- for floating rate notes that reset semi-annually, the third Wednesday of each of two months of each year as specified in the applicable supplement; and
- for floating rate notes that reset annually, the third Wednesday of one month of each year as specified in the applicable supplement.

For floating rate notes, the interest rate in effect on any particular day will be the interest rate determined with respect to the latest interest reset date that occurs on or before that day. There are several exceptions, however, to the reset provisions described above.

Interest reset dates are subject to adjustment, as described below under “— Business Day Conventions”. The applicable business day convention for an interest reset date will be specified in the applicable supplement.

The base rate in effect from and including the original issue date to but excluding the first interest reset date will be the initial base rate. For floating rate notes that reset daily or weekly, the base rate in

effect for each day following the second business day before an interest payment date to, but excluding, the interest payment date, and for each day following the second business day before the maturity to, but excluding, the maturity, will be the base rate in effect on that second business day.

**Interest Determination Dates.** The interest rate that takes effect on an interest reset date will be determined by the calculation agent by reference to a particular date called an interest determination date. Except as otherwise specified in the applicable supplement:

- For all floating rate notes other than LIBOR notes, EURIBOR notes, treasury rate notes and 11th district cost of funds rate notes, the interest determination date relating to a particular interest reset date will be the second business day before the interest reset date.
- For LIBOR notes, the interest determination date relating to a particular interest reset date will be the second **London business day** preceding the interest reset date, unless the **index currency** is pounds sterling, in which case the interest determination date will be the interest reset date. We refer to an interest determination date for LIBOR notes as a LIBOR interest determination date.
- For EURIBOR notes, the interest determination date relating to a particular interest reset date will be the second **euro business day** preceding the interest reset date. We refer to an interest determination date for EURIBOR notes as a EURIBOR interest determination date.
- For treasury rate notes, the interest determination date relating to a particular interest reset date, which we refer to as a treasury interest determination date, will be the day of the week in which the interest reset date falls on which treasury bills — i.e., direct obligations of the U.S. government — would normally be auctioned. Treasury bills are usually sold at auction on the Monday of each week, unless that day is a legal holiday, in which case the auction is usually held on the following Tuesday, except that the auction may be held on the preceding Friday. If as the result of a legal holiday an auction is held on the preceding Friday, that Friday will be the treasury interest determination date relating to the interest reset date occurring in the next succeeding week. If the auction is held on a day that would otherwise be an interest reset date, then the interest reset date will instead be the first business day following the auction date.
- For 11th district cost of funds rate notes, the interest determination date relating to a particular interest reset date will be the last working day, in the first calendar month before that interest reset date, on which the Federal Home Loan Bank of San Francisco publishes the monthly average cost of funds paid by member institutions of the Eleventh Federal Home Loan Bank District for the second calendar month before that interest reset date. We refer to an interest determination date for 11th district cost of funds rate notes as an 11th district interest determination date.

**Interest Calculation Dates.** As described above, the interest rate that takes effect on a particular interest reset date will be determined by reference to the corresponding interest determination date. Except for LIBOR notes and EURIBOR notes, however, the determination of the rate will actually be made on a day no later than the corresponding interest calculation date. Unless otherwise specified in the applicable supplement, the interest calculation date will be the earlier of the following:

- the tenth calendar day after the interest determination date or, if that tenth calendar day is not a business day, the next succeeding business day; or
- the business day immediately preceding the interest payment date or the maturity, whichever is the day on which the next payment of interest will be due.

The calculation agent need not wait until the relevant interest calculation date to determine the interest rate if the rate information it needs to make the determination is available from the relevant sources sooner.

**Interest Payment Dates.** The interest payment dates for floating rate notes will depend on when the interest rate is reset and, unless we specify otherwise in the applicable supplement, will be as follows:

- for floating rate notes that reset daily, weekly or monthly, the third Wednesday of each month or the third Wednesday of March, June, September and December of each year, as specified in the applicable supplement;
- for floating rate notes that reset quarterly, the third Wednesday of March, June, September and December of each year;
- for floating rate notes that reset semi-annually, the third Wednesday of the two months of each year specified in the applicable supplement; or
- for floating rate notes that reset annually, the third Wednesday of the month specified in the applicable supplement.

Regardless of these rules, if notes are originally issued after the regular record date and before the date that would otherwise be the first interest payment date, the first interest payment date will be the date that would otherwise be the second interest payment date. We have defined the term “regular record date” under “— Payment Mechanics for Notes” below.

**Calculation of Interest.** Subject to any laws or regulations requiring otherwise, interest payable on floating rate notes for any particular interest period will be calculated as described below using an interest factor, expressed as a decimal, applicable to each day during the applicable interest period, unless otherwise specified in your supplement.

For floating rate notes, the calculation agent will determine, on the corresponding calculation or interest determination date, as described below, 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 amount of the floating rate note by an accrued interest factor for the interest period. This factor will be determined in accordance with the day count convention specified in your supplement, including the following:

- If “**1/1 (ISDA)**” is specified, the factor will be equal to 1.
- If “**Actual/Actual (ISDA)**” or “**Act/Act (ISDA)**” is specified, the factor will be equal to the number of days in the interest period divided by 365 (or, if any portion of that interest period falls in a leap year, the sum of (1) the number of days in that portion of the interest period falling in a leap year divided by 366 and (2) the number of days in that portion of the interest period falling in a non-leap year divided by 365).
- If “**Actual/Actual (ICMA)**” is specified, the factor will be equal to the number of days in the interest period, including February 29 in a leap year, divided by the product of (1) the actual number of days in such interest period and (2) the number of interest periods in the calendar year.
- If “**Actual/Actual (Bond)**” is specified, the factor will be equal to the number of calendar days in the interest period, divided by the number of calendar days in the interest period multiplied by the number of interest periods in the calendar year.
- If “**Actual/Actual (Euro)**” is specified, the factor will be equal to the number of calendar days in the interest period divided by 365 or, if the interest period includes February 29, 366.

- If “**Actual/365 (Fixed)**”, “**Act/365 (Fixed)**”, “**A/365 (Fixed)**” or “**A365F**” is specified, the factor will be equal to the actual number of days in the interest period divided by 365.
- If “**Actual/360 (ISDA)**”, “**Act/360 (ISDA)**” or “**A/360 (ISDA)**” is specified, the factor will be equal to the number of days in the interest period divided by 360.
- If “**Actual/360 (ICMA)**” is specified, the factor will be equal to the number of calendar days in the period, including February 29 in a leap year, divided by 360 days.
- If “**30/360 (ISDA)**”, “**360/360 (ISDA)**” or “**Bond Basis (ISDA)**” is specified, the number of days in the interest period in respect of which payment is being made divided by 360, calculated on a formula basis as follows:

$$\text{Day Count Fraction} = \frac{[360 \times (Y2 - Y1)] + [30 \times (M2 - M1)] + (D2 - D1)}{360}$$

where:

“Y1” is the year, expressed as a number, in which the first day of the interest period falls;

“Y2” is the year, expressed as a number, in which the day immediately following the last day included in the interest period falls;

“M1” is the calendar month, expressed as a number, in which the first day of the interest period falls;

“M2” is the calendar month, expressed as a number, in which the day immediately following the last day included in the interest period falls;

“D1” is the first calendar day, expressed as a number, of the interest period, unless such number would be 31, in which case D1 will be 30; and

“D2” is the calendar day, expressed as a number, immediately following the last day included in the interest period, unless such number would be 31 and D1 is greater than 29, in which case D2 will be 30.

- If “**30E/360**”, “**30E/360 (ISDA)**” or “**Eurobond Basis**” is specified, the number of days in the interest period in respect of which payment is being made divided by 360, calculated on a formula basis as follows:

$$\text{Day Count Fraction} = \frac{[360 \times (Y2 - Y1)] + [30 \times (M2 - M1)] + (D2 - D1)}{360}$$

where:

“Y1” is the year, expressed as a number, in which the first day of the interest period falls;

“Y2” is the year, expressed as a number, in which the day immediately following the last day included in the interest period falls;

“M1” is the calendar month, expressed as a number, in which the first day of the interest period falls;

“M2” is the calendar month, expressed as a number, in which the day immediately following the last day included in the interest period falls;

“D1” is the first calendar day, expressed as a number, of the interest period, unless such number would be 31, in which case D1 will be 30; and

“D2” is the calendar day, expressed as a number, immediately following the last day included in the interest period, unless (i) such number would be 31, and (ii), if “30E/360 (ISDA)” is specified, that day is also the last day of February, in which case D2 will be 30.

Unless otherwise specified in your supplement, CD rate notes, commercial paper rate notes, EURIBOR notes, federal funds rate notes, LIBOR notes and prime rate notes will be subject to the Actual/360 (ISDA) day count convention, and treasury rate notes will be subject to the Actual/Actual (ISDA) day count convention.

Upon the request of the holder of any floating rate note, the calculation agent will provide the interest rate then in effect, and, if determined, the interest rate that will become effective on the next interest reset date with respect to such floating rate note.

All percentages resulting from any calculation relating to any note 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 any note 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.

### ***Calculation Agent***

Calculations relating to the notes will be made by the calculation agent, an institution that we appoint as our agent for this purpose. We have initially appointed The Bank of New York Mellon as our calculation agent for any floating rate notes. We may specify a different calculation agent in your supplement. The applicable supplement for your floating rate note will name the institution that we have appointed to act as the calculation agent for that note 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 your floating rate note without your consent and without notifying you of the change. That institution may include any affiliate of ours, such as Goldman Sachs International. Absent manifest error, all determinations of the calculation agent will be final and binding on you and us, without any liability on the part of the calculation agent.

### ***CD Rate Notes***

If you purchase CD rate notes, your notes will bear interest at a base rate equal to the CD rate and adjusted by the spread or spread multiplier, if any, specified in your supplement.

The CD rate will be the rate, on the relevant interest determination date, for negotiable U.S. dollar certificates of deposit having the index maturity specified in your supplement, as published in H.15(519) opposite the heading “CDs (secondary market)”. If the CD rate cannot be determined in this manner, the following procedures will apply.

- If the rate described above does not appear in H.15(519) at 3:00 P.M., New York City time, on the relevant interest calculation date, unless the calculation is made earlier and the rate is available from that source at that time, then the CD rate will be the rate, for the relevant interest determination date, described above as published in H.15 daily update, or another recognized electronic source used for displaying that rate, under the heading “CDs (secondary market)”.
- If the rate described above does not appear in H.15(519), H.15 daily update or another recognized electronic source at 3:00 P.M., New York City time, on the relevant interest calculation date, unless the calculation is made earlier and the rate is available from one of those sources at

that time, the CD rate will be the arithmetic mean of the following secondary market offered rates for negotiable U.S. dollar certificates of deposit of major U.S. money center banks with a remaining maturity closest to the specified index maturity, and in a representative amount: the rates offered as of 10:00 A.M., New York City time, on the relevant interest determination date, by three leading nonbank dealers in negotiable U.S. dollar certificates of deposit in New York City, as selected by the calculation agent.

- If fewer than three dealers selected by the calculation agent are quoting as described above, the CD rate in effect for the new interest period will be the CD rate in effect for the prior interest period. If the initial base rate has been in effect for the prior interest period, however, it will remain in effect for the new interest period.

### **CMS Rate Notes**

If you purchase CMS rate notes, your notes will bear interest at a base rate equal to the CMS rate and adjusted by the spread or spread multiplier, if any, specified in your supplement.

The CMS rate will be the rate, on the relevant interest determination date, appearing on the Reuters screen ISDAFIX2 page under the heading “EURIBOR Basis-EUR” or “LIBOR Basis-EUR”, for the index maturity specified in your supplement at 10:00 A.M., London time. If the CMS rate cannot be determined in this manner, the following procedures will apply:

- If the rate described above does not appear on Reuters ISDAFIX2 page under the appropriate heading for the specified index maturity at 10:00 A.M., London time, on the relevant interest calculation date, unless the calculation is made earlier and the rate is available from that source at that time, then the CMS rate will be determined on the basis of the mid-market semi-annual swap rate quotations provided by five leading swap dealers in the London interbank market at approximately 10:00 A.M., London time, on the relevant interest determination date. For this purpose, the semi-annual swap rate means the mean of the bid and offered rates for the semi-annual fixed leg, calculated on a 30/360 day count basis, of a fixed-for-floating euro interest rate swap transaction with a term equal to the specified index maturity commencing on the relevant interest determination date with an acknowledged dealer of good credit in the swap market, where the floating leg, calculated on an Actual /360 day count basis, is equivalent to EURIBOR (in the case of EURIBOR Basis-EUR) or LIBOR (in the case of LIBOR Basis-EUR) with a maturity of three months, as such rate may be determined in accordance with the provisions set forth above under “—EURIBOR Notes”. The calculation agent will select the five swap dealers in its sole discretion and will request the principal London office of each of those dealers to provide a quotation of its rate.
- If at least three quotations are provided, the CMS rate for that interest determination date will be the arithmetic mean of the quotations, eliminating the highest and lowest quotations or, in the event of equality, one of the highest and one of the lowest quotations.
- If fewer than three quotations are provided, the calculation agent will determine the CMS rate in its sole discretion.

### **CMT Rate Notes**

If you purchase CMT rate notes, your notes will bear interest at a base rate equal to the CMT rate and adjusted by the spread or spread multiplier, if any, specified in your supplement.

The CMT rate will be the following rate as published in H.15(519) opposite the heading “Treasury constant maturities”, as the yield is displayed on the **designated CMT Reuters screen page** under the heading “. . . Treasury Constant Maturities . . .”, under the column for the **designated CMT index maturity**:

- if the designated CMT Reuters screen page is the Reuters screen FRBCMT page, the rate for the relevant interest determination date; or

- if the designated CMT Reuters screen page is the Reuters screen FEDCMT page, the weekly or monthly average, as specified in your supplement, for the week that ends immediately before the week in which the relevant interest determination date falls, or for the month that ends immediately before the month in which the relevant interest determination date falls, as applicable.

If the CMT rate cannot be determined in this manner, the following procedures will apply:

- If the applicable rate described above is not displayed on the relevant designated CMT Reuters screen page at 3:00 P.M., New York City time, on the relevant interest calculation date, unless the calculation is made earlier and the rate is available from that source at that time, then the CMT rate will be the applicable treasury constant maturity rate described above — i.e., for the designated CMT index maturity and for either the relevant interest determination date or the weekly or monthly average, as applicable — as published in H.15(519).
- If the applicable rate described above does not appear in H.15(519) at 3:00 P.M., New York City time, on the relevant interest calculation date, unless the calculation is made earlier and the rate is available from that source at that time, then the CMT rate will be the treasury constant maturity rate, or other U.S. treasury rate, for the designated CMT index maturity and with reference to the relevant interest determination date, that:
  - is published by the Board of Governors of the Federal Reserve System, or the U.S. Department of the Treasury; *and*
  - is determined by the calculation agent to be comparable to the applicable rate formerly displayed on the designated CMT Reuters screen page and published in H.15(519).
- If the rate described in the prior paragraph does not appear at 3:00 P.M., New York City time, on the relevant interest calculation date, unless the calculation is made earlier and the rate is available from that source at that time, then the CMT rate will be the yield to maturity of the arithmetic mean of the following secondary market offered rates for the most recently issued treasury notes having an original maturity of approximately the designated CMT index maturity and a remaining term to maturity of not less than the designated CMT index maturity *minus* one year, and in a representative amount: the offered rates, as of approximately 3:30 P.M., New York City time, on the relevant interest determination date, of three primary U.S. government securities dealers in New York City selected by the calculation agent. In selecting these offered rates, the calculation agent will request quotations from five of these primary dealers and will disregard the highest quotation — or, if there is equality, one of the highest — and the lowest quotation — or, if there is equality, one of the lowest. Treasury notes are direct, non-callable, fixed rate obligations of the U.S. government.
- If the calculation agent is unable to obtain three quotations of the kind described in the prior paragraph, the CMT rate will be the yield to maturity of the arithmetic mean of the following secondary market offered rates for treasury notes with an original maturity longer than the designated CMT index maturity, with a remaining term to maturity closest to the designated CMT index maturity and in a representative amount: the offered rates, as of approximately 3:30 P.M., New York City time, on the relevant interest determination date, of three primary U.S. government securities dealers in New York City selected by the calculation agent. In selecting these offered rates, the calculation agent will request quotations from five of these primary dealers and will disregard the highest quotation — or, if there is equality, one of the highest — and the lowest quotation — or, if there is equality, one of the lowest. If two treasury notes with an original maturity longer than the designated CMT index maturity have remaining terms to maturity that are equally close to the designated CMT index maturity, the calculation agent will obtain quotations for the treasury notes with the shorter original term to maturity.
- If fewer than five but more than two of these primary dealers are quoting as described in the prior paragraph, then the CMT rate for the relevant interest determination date will be based on the arithmetic mean of the offered rates so obtained, and neither the highest nor the lowest of those quotations will be disregarded.
- If two or fewer primary dealers selected by the calculation agent are quoting as described above, the CMT rate in effect for the new interest period will be the CMT rate in effect for the prior interest

period. If the initial base rate has been in effect for the prior interest period, however, it will remain in effect for the new interest period.

### **Commercial Paper Rate Notes**

If you purchase commercial paper rate notes, your notes will bear interest at a base rate equal to the commercial paper rate and adjusted by the spread or spread multiplier, if any, specified in your supplement.

The commercial paper rate will be the **money market yield** of the rate, for the relevant interest determination date, for commercial paper having the **index maturity** specified in your supplement, as published in **H.15(519)** opposite the heading “Commercial Paper — Nonfinancial”. If the commercial paper rate cannot be determined as described above, the following procedures will apply.

- If the rate described above does not appear in H.15(519) at 3:00 P.M., New York City time, on the relevant interest calculation date, unless the calculation is made earlier and the rate is available from that source at that time, then the commercial paper rate will be the rate, for the relevant interest determination date, for commercial paper having the index maturity specified in your supplement, as published in **H.15 daily update** or any other recognized electronic source used for displaying that rate, opposite the heading “Commercial Paper — Nonfinancial”.
- If the rate described above does not appear in H.15(519), H.15 daily update or another recognized electronic source at 3:00 P.M., New York City time, on the relevant interest calculation date, unless the calculation is made earlier and the rate is available from one of those sources at that time, the commercial paper rate will be the money market yield of the arithmetic mean of the following offered rates for U.S. dollar commercial paper that has the specified index maturity and is placed for an industrial issuer whose long-term bond rating is “AA”, or the equivalent, from a nationally recognized rating agency: the rates offered as of 11:00 A.M., New York City time, on the relevant interest determination date, by three leading U.S. dollar commercial paper dealers in New York City selected by the calculation agent.
- If fewer than three dealers selected by the calculation agent are quoting as described above, the commercial paper rate for the new interest period will be the commercial paper rate in effect for the prior interest period. If the initial base rate has been in effect for the prior interest period, however, it will remain in effect for the new interest period.

### **EURIBOR Notes**

If you purchase EURIBOR notes, your notes will bear interest at a base rate equal to the interest rate for deposits in euros designated as “EURIBOR” and sponsored jointly by the European Banking Federation and ACI — The Financial Market Association, or any company established by the joint sponsors for purposes of compiling and publishing that rate. In addition, the EURIBOR base rate will be adjusted by the spread or spread multiplier, if any, specified in your supplement. EURIBOR will be determined in the following manner:

- EURIBOR will be the offered rate for deposits in euros having the index maturity specified in your supplement, beginning on the second euro business day after the relevant EURIBOR interest determination date, as that rate appears on the **Reuters screen EURIBOR01 page** as of 11:00 A.M., Brussels time, on the relevant EURIBOR interest determination date.
- If the rate described above does not so appear on the Reuters screen EURIBOR01 page, EURIBOR will be determined on the basis of the rates, at approximately 11:00 A.M., Brussels time, on the relevant EURIBOR interest determination date, at which deposits of the following kind are offered to prime banks in the euro-zone interbank market by the principal euro-zone office of each of four major banks in that market selected by the calculation agent: euro deposits having the specified index maturity, beginning on the relevant interest reset date, and in a representative amount. The calculation agent will request the principal euro-zone office of each of these banks to provide a quotation of its rate. If at least two quotations are provided,

EURIBOR for the relevant EURIBOR interest determination date will be the arithmetic mean of the quotations.

- If fewer than two quotations are provided as described above, EURIBOR for the relevant EURIBOR interest determination date will be the arithmetic mean of the rates for loans of the following kind to leading euro-zone banks quoted, at approximately 11:00 A.M., Brussels time on that EURIBOR interest determination date, by three major banks in the euro-zone selected by the calculation agent: loans of euros having the specified index maturity, beginning on the relevant interest reset date, and in a representative amount.
- If fewer than three banks selected by the calculation agent are quoting as described above, EURIBOR for the new interest period will be EURIBOR in effect for the prior interest period. If the initial base rate has been in effect for the prior interest period, however, it will remain in effect for the new interest period.

### ***Federal Funds Rate Notes***

If you purchase federal funds rate notes, your notes will bear interest at a base rate equal to the federal funds (effective) rate or the federal funds open rate, as specified in your supplement, and adjusted by the spread or spread multiplier, if any, specified in your supplement.

If federal funds (effective) is the base rate indicated in your supplement, the federal funds rate will be the rate for U.S. dollar federal funds on the relevant interest determination date, as published in H.15(519) opposite the heading "Federal funds (effective)", as that rate is displayed on the Reuters screen FEDFUNDS1 page under the heading "EFFECT". If the federal funds rate cannot be determined in this manner, the following procedures will apply.

- If the rate described above is not displayed on the Reuters screen FEDFUNDS1 page at 3:00 P.M., New York City time, on the relevant interest calculation date, unless the calculation is made earlier and the rate is available from that source at that time, then the federal funds rate, for the relevant interest determination date, will be the rate described above as published in H.15 daily update, or another recognized electronic source used for displaying that rate, opposite the heading "Federal funds (effective)".
- If the rate described above is not displayed on the Reuters screen FEDFUNDS1 page and does not appear in H.15(519), H.15 daily update or another recognized electronic source at 3:00 P.M., New York City time, on the relevant interest calculation date, unless the calculation is made earlier and the rate is available from one of those sources at that time, the federal funds rate will be the arithmetic mean of the rates for the last transaction in overnight, U.S. dollar federal funds arranged, before 9:00 A.M., New York City time, on the relevant interest determination date, by three leading brokers of U.S. dollar federal funds transactions in New York City selected by the calculation agent.
- If fewer than three brokers selected by the calculation agent are quoting as described above, the federal funds rate in effect for the new interest period will be the federal funds rate in effect for the prior interest period. If the initial base rate has been in effect for the prior interest period, however, it will remain in effect for the new interest period.

If federal funds open is the base rate indicated in your supplement, the federal funds rate will be the rate for U.S. dollar federal funds on the relevant interest determination date under the heading "Federal Funds" and opposite the caption "Open", as that rate is displayed on Reuters screen page 5. If the federal funds open rate cannot be determined in this manner, the following procedures will apply.

- If the rate described above is not displayed on Reuters screen page 5 at 5:00 P.M., New York City time, on the relevant interest determination date, unless the calculation is made earlier and the rate is available from that source at that time, then the federal funds open rate for the relevant interest determination date, will be the rate for that day displayed on the FFPREBON Index page

on Bloomberg (which is the Fed Funds Opening Rate as reported by Prebon Yamane (or a successor) on Bloomberg).

- If the rate described above is not displayed on Reuters screen page 5 and does not appear on the FFPREBON Index on Bloomberg at 5:00 P.M., New York City time, on the relevant interest determination date, unless the calculation is made earlier and the rate is available from one of those sources at that time, the federal funds open rate will be the arithmetic mean of the rates for the last transaction in overnight U.S. dollar federal funds, arranged before 9:00 A.M., New York City time on the relevant interest determination date, quoted by three leading brokers of U.S. dollar federal funds transactions in New York City selected by the calculation agent.
- If fewer than three brokers selected by the calculation agent are quoting as described above, the federal funds open rate in effect for the new interest period will be the federal funds open rate in effect for the prior interest period. If the initial base rate has been in effect for the prior interest period, however, it will remain in effect for the new interest period.

### **LIBOR Notes**

If you purchase LIBOR notes, your notes will bear interest at a base rate equal to LIBOR, which will be the London interbank offered rate for the index maturity specified in your supplement and for deposits in U.S. dollars or any other **index currency**, as specified in your supplement. In addition, the applicable LIBOR base rate will be adjusted by the spread or spread multiplier, if any, specified in your supplement. LIBOR will be determined in the following manner:

- LIBOR will be the offered rate appearing on the Reuters screen LIBOR page as of 11:00 A.M., London time, on the relevant LIBOR interest determination date, for deposits of the relevant index currency having the specified index maturity beginning on the relevant interest reset date. Your supplement will indicate the index currency and the index maturity that apply to your LIBOR notes.
- If the rate described above does not so appear on the Reuters screen LIBOR page, then LIBOR will be determined on the basis of the rates, at approximately 11:00 A.M., London time, on the relevant LIBOR interest determination date, 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: deposits of the index currency having the specified index maturity, beginning on the relevant interest reset date, 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 relevant LIBOR interest determination date will be the arithmetic mean of the quotations.
- If fewer than two quotations are provided as described above, LIBOR for the relevant LIBOR interest determination date 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., in the principal financial center for the country of the index currency, on that LIBOR interest determination date, by three major banks in that principal financial center selected by the calculation agent: loans of the index currency having the specified index maturity, beginning on the relevant interest reset date, and in a representative amount.
- If fewer than three banks selected by the calculation agent are quoting as described above, LIBOR for the new interest period will be LIBOR in effect for the prior interest period. If the initial base rate has been in effect for the prior interest period, however, it will remain in effect for the new interest period.

### **Prime Rate Notes**

If you purchase prime rate notes, your notes will bear interest at a base rate equal to the prime rate and adjusted by the spread or spread multiplier, if any, specified in your supplement. The prime rate will

be the rate, for the relevant interest determination date, published in H.15(519) opposite the heading "Bank prime loan". If the prime rate cannot be determined as described above, the following procedures will apply.

- If the rate described above does not appear in H.15(519) at 3:00 P.M., New York City time, on the relevant interest calculation date, unless the calculation is made earlier and the rate is available from that source at that time, then the prime rate will be the rate, for the relevant interest determination date, as published in H.15 daily update or another recognized electronic source used for the purpose of displaying that rate, opposite the heading "Bank prime loan".
- If the rate described above does not appear in H.15(519), H.15 daily update or another recognized electronic source at 3:00 P.M., New York City time, on the relevant interest calculation date, unless the calculation is made earlier and the rate is available from one of those sources at that time, then the prime rate will be the arithmetic mean of the following rates as they appear on the Reuters screen USPRIME1 page: the rate of interest publicly announced by each bank appearing on that page as that bank's prime rate or base lending rate, as of 11:00 A.M., New York City time, on the relevant interest determination date.
- If fewer than four of these rates appear on the Reuters screen USPRIME 1 page, the prime rate will be the arithmetic mean of the prime rates or base lending rates, as of the close of business on the relevant interest determination date, of three major banks in New York City selected by the calculation agent. For this purpose, the calculation agent will use rates quoted on the basis of the actual number of days in the year divided by a 360-day year.
- If fewer than three banks selected by the calculation agent are quoting as described above, the prime rate for the new interest period will be the prime rate in effect for the prior interest period. If the initial base rate has been in effect for the prior interest period, however, it will remain in effect for the new interest period.

### ***Treasury Rate Notes***

If you purchase treasury rate notes, your notes will bear interest at a base rate equal to the treasury rate and adjusted by the spread or spread multiplier, if any, specified in your supplement.

The treasury rate will be the rate for the auction, on the relevant treasury interest determination date, of U.S. government treasury bills having the index maturity specified in your supplement, as that rate appears on the Reuters screen USAUCTION10 page or USAUCTION11 page under the heading "INVEST RATE". If the treasury rate cannot be determined in this manner, the following procedures will apply.

- If the rate described above does not appear on either page at 3:00 P.M., New York City time, on the relevant interest calculation date, unless the calculation is made earlier and the rate is available from that source at that time, the treasury rate will be the bond equivalent yield of the rate, for the relevant interest determination date, for the type of treasury bill described above, as announced by the U.S. Department of the Treasury.
- If the auction rate described in the prior paragraph is not so announced by 3:00 P.M., New York City time, on the relevant interest calculation date, or if no such auction is held for the relevant week, then the treasury rate will be the bond equivalent yield of the rate, for the relevant treasury interest determination date and for treasury bills having the specified index maturity, as published in H.15(519) under the heading "U.S. government securities/Treasury bills (secondary market)".
- If the rate described in the prior paragraph does not appear in H.15(519) at 3:00 P.M., New York City time, on the relevant interest calculation date, unless the calculation is made earlier and the rate is available from one of those sources at that time, then the treasury rate will be the rate, for the relevant treasury interest determination date and for treasury bills having the specified index maturity, as published in H.15 daily update, or another recognized electronic source used for

displaying that rate, under the heading “U.S. government securities/Treasury bills (secondary market)”. If the rate described in the prior paragraph does not appear in H.15(519) at 3:00 P.M., New York City time, on the relevant interest calculation date, unless the calculation is made earlier and the rate is available from one of those sources at that time, then the treasury rate will be the rate, for the relevant treasury interest determination date and for treasury bills having a remaining maturity closest to the specified index maturity, as published in H.15 daily update, or another recognized electronic source used for displaying that rate, under the heading “U.S. government securities/Treasury bills/Secondary market”.

- If the rate described in the prior paragraph does not appear in H.15 daily update or another recognized electronic source at 3:00 P.M., New York City time, on the relevant interest calculation date, unless the calculation is made earlier and the rate is available from one of those sources at that time, the treasury rate will be the bond equivalent yield of the arithmetic mean of the following secondary market bid rates for the issue of treasury bills with a remaining maturity closest to the specified index maturity: the rates bid as of approximately 3:30 P.M., New York City time, on the relevant treasury interest determination date, by three primary U.S. government securities dealers in New York City selected by the calculation agent.
- If fewer than three dealers selected by the calculation agent are quoting as described in the prior paragraph, the treasury rate in effect for the new interest period will be the treasury rate in effect for the prior interest period. If the initial base rate has been in effect for the prior interest period, however, it will remain in effect for the new interest period.

### **11th District Cost of Funds Rate Notes**

If you purchase 11th district cost of funds rate notes, your notes will bear interest at a base rate equal to the 11th district cost of funds rate and adjusted by the spread or spread multiplier, if any, specified in your supplement.

The 11th district cost of funds rate will be the rate equal to the monthly weighted average cost of funds for the calendar month immediately before the relevant 11th district interest determination date, as displayed on the Reuters screen COFI/ARMS page opposite the heading “11TH Dist COFI:” as of 11:00 A.M., San Francisco time, on that date. If the 11th district cost of funds rate cannot be determined in this manner, the following procedures will apply.

- If the rate described above does not appear on the Reuters screen COFI/ARMS page on the relevant 11th district interest determination date, then the 11th district cost of funds rate for that date will be the monthly weighted average cost of funds paid by institutions that are members of the Eleventh Federal Home Loan Bank District for the calendar month immediately before the relevant 11th district interest determination date, as most recently announced by the Federal Home Loan Bank of San Francisco as that cost of funds.
- If the Federal Home Loan Bank of San Francisco fails to announce the cost of funds described in the prior paragraph on or before the relevant 11th district interest determination date, the 11th district cost of funds rate in effect for the new interest period will be the 11th district cost of funds rate in effect for the prior interest period. If the initial base rate has been in effect for the prior interest period, however, it will remain in effect for the new interest period.

### **Business Day Conventions**

As specified in the applicable supplement, one of the following business day conventions may apply to any note with regard to any relevant date other than one that falls on the maturity:

- “**Following business day convention**” means, for any interest payment date, other than the maturity, if such date would otherwise fall on a day that is not a business day, then such date will be postponed to the next day that is a business day.

- **“Modified following business day convention”** means, for any interest payment date, other than the maturity, if such date would otherwise fall on a day that is not a business day, then such date will be postponed to the next day that is a business day, except that, if the next business day falls in the next calendar month, then such date will be advanced to the immediately preceding day that is a business day.
- **“Following unadjusted business day convention”** means, for any interest payment date, other than the maturity, that falls on a day that is not a business day, any payment due on such interest payment date will be postponed to (and not be due until) the next day that is a business day; provided that interest due with respect to such interest payment date shall not accrue from and including such interest payment date to and including the date of payment of such interest as so postponed.
- **“Modified following unadjusted business day convention”** means, for any interest payment date, other than the maturity, that falls on a day that is not a business day, any payment due on such interest payment date will be postponed to (and not be due until) the next day that is a business day; provided that interest due with respect to such interest payment date shall not accrue from and including such interest payment date to and including the date of payment of such interest as so postponed, and provided further that, if such day would fall in the next succeeding calendar month, the date of payment with respect to such interest payment date will be advanced to (and be due on) the business day immediately preceding such interest payment date.

In all cases, if the stated maturity or any earlier redemption date, repayment date or other payment date with respect to any note falls on a day that is not a business day, any payment of principal, premium, if any, and interest otherwise due on such day may be made on the next succeeding business day (which will be the due date for such payment), and no interest on such payment shall accrue for the period from and after such stated maturity, redemption date or repayment date (or other payment date), as the case may be.

### **Business Days**

One or more of the following business day definitions may apply to any note, as specified in the applicable supplement:

**“Euro business day”** means each Monday, Tuesday, Wednesday, Thursday and Friday on which the Trans-European Automated Real-Time Gross Settlement Express Transfer (TARGET) System, or any successor system, is open for business.

**“London business day”** means each Monday, Tuesday, Wednesday, Thursday and Friday that is not a day on which banking institutions in London generally are authorized or obligated by law, regulation or executive order to close and, in the case of any note for which LIBOR is an interest rate basis, is also a day on which dealings in the applicable index currency are transacted in the London interbank market.

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

Additional business days not defined above may apply to any note and will be described in the applicable supplement.

### **Special Rate Calculation Terms**

In this subsection entitled “— Interest Rates”, we use several terms that have special meanings relevant to calculating floating interest rates. We define these terms as follows:

The term “**bond equivalent yield**” means a yield expressed as a percentage and calculated in accordance with the following formula:

$$\text{bond equivalent yield} = \frac{D \times N}{360 - (D \times M)} \times 100$$

where

- “D” means the annual rate for treasury bills quoted on a bank discount basis and expressed as a decimal;
- “N” means 365 or 366, as the case may be; and
- “M” means the actual number of days in the applicable interest reset period.

The term “**designated CMT index maturity**” means the index maturity for CMT rate notes and will be the original period to maturity of a U.S. treasury security — either 1, 2, 3, 5, 7, 10, 20 or 30 years — specified in your supplement. If no such original maturity period is so specified, the designated CMT index maturity will be 2 years.

The term “**designated CMT Reuters screen page**” means the Reuters screen page specified in your supplement that displays treasury constant maturities as reported in H.15(519). If no Reuters screen page is so specified, then the applicable page will be the Reuters screen FEDCMT page. If the Reuters screen FEDCMT page applies but your supplement does not specify whether the weekly or monthly average applies, the weekly average will apply.

The term “**euro-zone**” means, at any time, the region comprised of the member states of the European Economic and Monetary Union, or any successor union, that, as of that time, have adopted a single currency in accordance with the Treaty on European Union of February 1992, or any successor treaty

“**H.15(519)**” means the weekly statistical release designated as such published by the Federal Reserve System Board of Governors, or its successor, available through the website of the Board of Governors of the Federal Reserve System at <http://www.federalreserve.gov/releases/h15/update/h15upd.htm>, or any successor site or publication.

“**H.15 daily update**” means the daily update of H.15(519), available through the website of the Board of Governors of the Federal Reserve System, at <http://www.federalreserve.gov/releases/h15/update/h15upd.htm>, or any successor site or publication.

The term “**index currency**” means, with respect to LIBOR notes the currency specified as such in the applicable supplement. The index currency may be U.S. dollars or any other currency, and will be U.S. dollars unless another currency is specified in the applicable supplement.

The term “**index maturity**” means, with respect to floating rate notes the period to maturity of the instrument or obligation on which the interest rate formula is based, as specified in the applicable supplement.

The term “**money market yield**” means a yield expressed as a percentage and calculated in accordance with the following formula:

$$\text{money market yield} = \frac{D \times 360}{360 - (D \times M)} \times 100$$

where

- “D” means the annual rate for commercial paper quoted on a bank discount basis and expressed as a decimal; and
- “M” means the actual number of days in the relevant interest reset period.

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**” means the display on the Reuters 3000 Xtra service, or any successor or replacement service, on the page or pages specified in this offering circular or the applicable supplement, or any successor or replacement page or pages on that service.

“**Reuters screen LIBOR page**” means the display on the Reuters screen LIBOR01 page or Reuters screen LIBOR02 page, as specified in the applicable supplement, or any replacement page or pages on which London interbank rates of major banks for the relevant index currency are displayed.

“**Reuters screen USPRIME 1 page**” means the display on the Reuters screen page titled “USPRIME1”, for the purpose of displaying prime rates or base lending rates of major U.S. banks.

If, when we use the terms designated CMT Reuters screen page, H.15(519), H.15 daily update, Reuters screen LIBOR page, Reuters screen USPRIME1 page, Reuters screen USAUCTION10 page, Reuters screen USAUCTION11 page, Reuters screen ISDAFIX2 page, Reuters screen COFI/ARMS page, Reuters screen page 5 or Reuters screen, we refer to a particular heading or headings on any of those pages, those references include any successor or replacement heading or headings as determined by the calculation agent.

### **Additions and Withdrawals**

Unless required by applicable law, and except as provided under “— Redemption and Repayment”, we will not be obligated (and no holder will have the right to require us) to redeem, repay or withdraw the obligations evidenced by the notes before maturity, but this will not prohibit us, if we wish to do so, from engaging in any open market or other transaction in which we agree to repurchase or repay the notes before maturity. The obligations represented by the notes will not be renewed at maturity, and no additions may be made to the notes at any time; provided that the foregoing shall not prevent Goldman Sachs Bank USA from reopening the notes of any series by issuing additional notes having the same terms and treating them as part of the same series.

### **Redemption and Repayment**

Unless otherwise indicated in your supplement, your notes 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 notes. In addition, we will not be entitled to redeem your notes before their stated maturity unless your supplement specifies a redemption commencement date or as otherwise described below. You will not be entitled to require us to buy your notes from you, before their stated maturity, unless your supplement specifies one or more repayment dates.

If your 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 notes. It may also specify one or more redemption periods during which the redemption prices relating to a redemption of notes during those periods will apply.

If your supplement specifies a redemption commencement date, your notes 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 notes, 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 notes are redeemed.

If your supplement specifies circumstances under which we will pay additional amounts on any notes held by a person who is not a United States person for tax purposes, it may also specify that we can redeem your notes if we have to pay additional amounts. Thus, your notes may also be subject to redemption at our option as described in such supplement.

If your supplement specifies a repayment date, your notes 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 notes, we will give to the holder written notice of the principal amount of notes 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 notes represented by a global note are subject to repayment at the holder's option, the depository 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 note 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 depository 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 depository 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 notes from investors who are willing to sell from time to time in private transactions at negotiated prices. Notes that we or they purchase may, at our discretion, be held, resold or canceled. These purchases may be subject to certain regulatory conditions, including, if we or any of our affiliates purchase notes from a holder within six days after the date of initial issuance of those notes, downward adjustments to the purchase price to be paid to such holder to account for early withdrawal penalties imposed by us pursuant to Regulation D of the Federal Reserve Board. Thus, if you sell a note to us or any of our affiliates shortly after you purchase and pay for it, you may receive a reduced price for your note.

Unless otherwise specified in your supplement, and as further described in your supplement, we will redeem the notes if our insured status is terminated by the FDIC or us or as a result of our actions. If we are required to redeem the notes due to the termination of our insured status by the FDIC or us, we will provide to each holder written notice of such redemption promptly, or as otherwise required by the FDIC, after we receive notification from the FDIC that our insured status will be terminated. Your supplement will describe the manner for determining the redemption payment you will receive on the redemption date, which will also be described in your supplement. In the event we redeem your notes due to the termination of our insured status, you may receive less than the amount that would be otherwise payable on your notes at maturity. In the case of an indexed note, for example, you may not receive the amount of any supplemental payment that might otherwise be payable on the note at maturity.

In the event of the death of a beneficial owner of a note or if a beneficial owner is determined to be legally incompetent by a court or other administrative body of competent jurisdiction, the authorized representative of such beneficial owner will have the option to request redemption of the face amount of such note (the "Authorized Representative's Option"). By authorized representative, we mean a personal representative, court appointed representative or other person authorized to represent the beneficial owner of the note who has the right to sell, transfer or otherwise dispose of an interest in the note and the right to receive the proceeds of the note, as well as the interest, supplemental amount and principal payable to the holder of the note. Upon such redemption, only the face amount of such note will be paid and any supplemental amount or other amounts (including any accrued but unpaid interest) otherwise payable on such note will not be paid. However, the value of your note may be greater than the face amount at the time of redemption because of the performance of an underlying index or stock. Because

only 100% of the face amount is payable upon such redemption, the authorized representative of a deceased or incapacitated beneficial owner may wish to consider whether the sale of the note in the secondary market, if one exists for the notes, will result in a higher price for the notes. Authorized representatives may contact the beneficial owner's broker to determine the price of the notes in the secondary market, if any. Goldman, Sachs & Co. is under no obligation to maintain a secondary market for the notes.

The Authorized Representative's Option will be permitted, without penalty, so long as: (a) the note has not been previously redeemed or otherwise repaid and (b) the note has not been declared due and payable before the stated maturity by reason of an event of default, as provided under "— Default, Remedies and Waiver of Default".

If the Authorized Representative's Option is exercised, the authorized representative of the deceased or incapacitated beneficial owner will be required to provide the beneficial owner's broker with the following items:

- a written request for redemption signed by the authorized representative of the deceased or incapacitated beneficial owner with the signature guaranteed by a member firm of a registered national securities exchange or of the Financial Institution Regulatory Authority, Inc. (FINRA) or a commercial bank or trust company having an office or correspondent in the United States and a written instruction to notify the depository of the authorized representative's desire to obtain redemption pursuant to exercise of the Authorized Representative's Option;
- appropriate evidence satisfactory to the broker:
  - a) that the deceased or incapacitated beneficial owner was the beneficial owner of the note at the time of death,
  - b) that the death or adjudication of incompetence of the beneficial owner has occurred,
  - c) of the date of death or adjudication of incompetence of the beneficial owner, and
  - d) that the representative has authority to act on behalf of the beneficial owner; and if applicable, a properly executed assignment or endorsement;
- tax waivers and any other instruments or documents that the broker, Goldman Sachs Bank USA or the fiscal agent may reasonably require in order to establish the validity of the beneficial ownership of the note and the claimant's entitlement to payment;
- any additional information that the broker may reasonably require to evidence satisfaction of any conditions to the exercise of the Authorized Representative's Option or to document beneficial ownership or authority to make the election and to cause the redemption of the note; and
- if the interest in the note is held by a nominee of the deceased beneficial owner, a certificate satisfactory to the broker from the nominee attesting to the deceased's beneficial ownership of such Security.

Goldman Sachs Bank USA has no responsibility for the actions of the depository or any broker, or any other financial institution through which any interest in the notes may be held, with regard to redemption requests, including any failure to make, or any delay in making, such a request on the part of the depository, any broker or any such other institution. Notwithstanding the foregoing, Goldman Sachs Bank USA has the right to request any additional evidence it may require and to reject any exercise of the Authorized Representative's Option.

Any authorized representative wishing to request a redemption of the notes will need to contact the relevant broker through which the deceased or incapacitated beneficial owner's interests in the notes are held.

### **Mergers and Similar Transactions**

Subject to regulatory approval, we are generally permitted to merge or consolidate with another corporation or other entity. Also subject to regulatory approval, we are also permitted to sell our assets substantially as an entirety to another corporation or other entity. However, with respect to any series of notes, we may not take any of these actions unless all the following conditions are met:

- If the successor entity in the transaction is not Goldman Sachs Bank USA the successor entity must be organized as a corporation, partnership, trust or other organization and must expressly assume our obligations under the notes of such series and the fiscal agency agreement with respect to the notes of such 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 notes of such series has occurred and is continuing. For this purpose, "default under the notes" means an event of default with respect to the notes of such series or any event that would be an event of default with respect to the notes of such 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".
- We deliver to the fiscal agent an officers' certificate and an opinion of counsel, each stating that such transaction complies with the fiscal agency agreement and the notes and that all conditions in the fiscal agency agreement and the notes of such series relating to such transaction have been complied with.

If the conditions described above are satisfied with respect to the notes of any series, we will not need to obtain the approval of the holders of the notes of such series 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 us but in which we do not merge or consolidate and any transaction in which we sell our assets but not substantially as an entirety.

In the event Goldman Sachs Bank USA merges, consolidates or sells its assets substantially as an entirety and the successor entity is not an insured depository institution (e.g., an entity that is not a bank or is a non-U.S. bank or other entity), FDIC insurance on the notes will be terminated and the notes will be redeemed as described under "Description of the Notes We May Offer—Redemption and Repayment" above. The payment amount you receive upon a redemption due to the termination of FDIC insurance may be less than the amount you would have received on the stated maturity date. Thus, our ability to merge or consolidate with or sell our assets to another entity may affect the amount you receive on your notes. 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 the notes.

### **Default, Remedies and Waiver of Default**

The holders of the notes of each series will have special rights if an event of default with respect to the notes of such series occurs and is continuing, but only as described in this section.

## **Events of Default**

Unless the applicable supplement says otherwise, when we refer to an event of default with respect to the notes of any series, we mean any of the following:

- We do not pay the principal or any premium on any note of such series on the due date;
- We do not pay interest on any note of such series within 30 days after the due date;
- We do not deposit a sinking fund payment with regard to any note of such series on the due date, but only if the payment is required under provisions described in the applicable supplement;
- We remain in breach of any covenant or agreement we make for the benefit of the notes of such series, for 60 days after we and the fiscal agent 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 holders of at least 10% in principal amount of the notes of such series then outstanding;
- We file for bankruptcy or other events of bankruptcy, insolvency or reorganization relating to us 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 supplement states that any additional event of default applies to the notes of such series, that event of default occurs.

## **Remedies If an Event of Default Occurs**

Except as otherwise specified in the applicable supplement, if an event of default has occurred with respect to the notes of any series and has not been cured or waived, the holder of each note in such series may, by written notice to Goldman Sachs Bank USA and the fiscal agent, declare the principal of such note to be due and payable immediately. Unless such event of default has been cured prior to the receipt of such written notice to Goldman Sachs Bank USA from the holder of such note, the principal of such note will become immediately due and payable. The holder of a note is entitled at any time, however, to bring a lawsuit for the payment of money due on such note on or after its due date.

You should be aware that despite any arrangement stated in this offering circular regarding any payment due on the notes in case of an event of default specified in the fifth bullet point under “— Events of Default” above, the FDIC is not bound by such arrangement. Specifically, when the FDIC is appointed conservator or receiver of a bank, it generally has the power to enforce any contractual obligation of such bank, notwithstanding any provision providing for termination, default, acceleration, or exercise of rights triggered by the insolvency of the bank. See “Status of Deposit Notes” above.

## **Waiver of Default**

The holders of not less than a majority in principal amount of the notes of any series affected by a default may waive such default for all the notes 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 any note, however, without the approval of the holder of the note.

*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 fiscal agent 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 Notes and Fiscal Agency Agreement and Waiver of Covenants**

There are three types of changes we can make to the fiscal agency agreement and the notes.

### ***Changes Requiring Each Holder's Approval***

First, there are changes that cannot be made with respect to notes of any series without the written consent or the affirmative vote or approval of the holder of each note of such series affected by the change. Those types of changes include the following:

- change the due date for the payment of principal of, or premium, if any, or any installment of interest on any note of such series;
- reduce the principal amount of any note of such series, the portion of the principal amount of any note of such series that is payable after a default upon acceleration of the maturity or the interest rate or the redemption price for a note of such series;
- change the currency of any payment on a note of such series;
- change our obligation (if any) to pay additional amounts;
- shorten the period during which redemption of the notes of such series is not permitted or permit redemption of the notes of such series if not previously permitted;
- change the place of payment on a note of such series;
- reduce the percentage of the principal amount of the outstanding notes of such series necessary to modify, amend or supplement the fiscal agency agreement or the notes of such series or to waive past defaults or future compliance;
- reduce the percentage of the principal amount of the outstanding notes of such series required to adopt a resolution or the required quorum at any meeting of holders of notes of such series at which a resolution is adopted; or
- change any provision in a note of such series with respect to redemption at the holders' option in any manner adverse to the interests of the holder of any note of such series.

### ***Changes Not Requiring Approval***

The second type of change does not require any approval by holders of the notes. These changes are limited to:

- adding to our covenants for the benefit of the holder of any note;
- surrendering any of our right or power in any note;
- evidencing the succession of another person or entity to Goldman Sachs Bank USA and the assumption by any such successor of the covenants and obligations of Goldman Sachs Bank USA;
- curing any ambiguity or curing, correcting or supplementing any defective provision in any note or the fiscal agency agreement; or
- amending the fiscal agency agreement or any note in any manner determined by us and the fiscal agent, *provided* that any amendment relating to the notes of a series is not inconsistent with the notes of such series and does not adversely affect the interests of any holder of the notes of such

series; *provided, further* that in determining whether any such amendment is not inconsistent with the notes of such series and does not adversely affect the interests of any holder of the notes of such series, the fiscal agent shall be permitted to conclusively rely on a certificate to that effect from Goldman Sachs Bank USA; and *provided, further*, any such amendment that affects only the notes of a series to be established after the amendment becomes effective will be deemed not to be inconsistent or to have an adverse effect in this manner.

### **Changes Requiring Majority Approval**

With respect to the notes of any series and unless otherwise stated in the applicable supplement, any other change to the fiscal agency agreement and the notes of such series would require the following approval:

- The written consent of the holders of at least a majority of the aggregate principal amount of the notes of such series that are to be affected by such change at the time outstanding; or
- The adoption of a resolution at a meeting at which a quorum of holders is present by a majority of the aggregate principal amount of the notes of such series that are to be affected by such change then outstanding represented at the meeting.

With respect to the notes of any series, the same majority approval would be required for us to obtain a waiver of any of our covenants in the fiscal agency agreement. If the holders approve a waiver of a covenant, we will not have to comply with it.

The quorum at any meeting called to adopt a resolution with respect to the notes of any series will be persons holding or representing a majority in aggregate principal amount of the notes of such series that are to be affected by the applicable change at the time outstanding and, at any reconvened meeting adjourned for lack of a quorum, 25% of the aggregate principal amount of the notes of such series that are to be affected by the applicable change then outstanding. For purposes of determining whether holders of the aggregate principal amount of notes of any series required for any action or vote, or for any quorum, have taken the action or vote, or constitute a quorum, the principal amount of any particular note may differ from its principal amount at stated maturity but will not exceed its stated face amount upon original issuance, in each case unless otherwise stated in the applicable supplement and except as discussed below under “— Special Rules for Action by Holders”.

When we refer to the holders of the required principal amount of the outstanding notes of a series that are to be affected by a particular change, we mean the requisite amount of those outstanding notes that are to be affected by the change and not the requisite amount of all the notes of the series, unless all of the notes of the series are to be affected by the change.

Unless otherwise indicated in the applicable supplement, we will be entitled to set any day as a record date for determining which holders of book-entry notes are entitled to make, take or give requests, demands, authorizations, directions, notices, consents, waivers or other action, or to vote on actions, authorized or permitted by the fiscal agency agreement. In addition, record dates for any book-entry note may be set in accordance with procedures established by the depository from time to time. Therefore, record dates for book-entry notes may differ from those for other notes.

*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 fiscal agency agreement or any notes or request a waiver.*

### **Special Rules for Action by Holders**

When holders take any action under the fiscal agency agreement, such as giving a notice of default, declaring an acceleration, approving any change or waiver or giving the fiscal agent an instruction, we will apply the following rules.

### ***Only Outstanding Notes Are Eligible***

Only holders of outstanding notes will be eligible to participate in any action by holders of notes. Also, we will count only outstanding notes in determining whether the various percentage requirements for taking action have been met. For these purposes, a note will not be “outstanding”:

- if it has been cancelled or surrendered for cancellation or held by the fiscal agent for reissuance but not reissued;
- if it has been called for redemption in accordance with its terms or it has become due and payable at maturity or otherwise and with respect to which monies sufficient to pay the principal thereof (and premium, if any) and any interest thereon shall have been made available to the fiscal agent;
- if other notes shall have been authenticated and delivered pursuant to the fiscal agency agreement in lieu of or in substitution for such notes; or
- if we or one of our affiliates, such as Goldman, Sachs & Co., is the owner.

### ***Eligible Principal Amount of Some Notes***

In some situations, we may follow special rules in calculating the principal amount of a note 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 currency other than U.S. dollar or changes over time.

For any note of the kind described below, we will decide how much principal amount to attribute to the notes as follows:

- For original issue discount notes or notes which by their terms provide for an amount other than the face amount to be due and payable upon a declaration of acceleration of the maturity thereof or at stated maturity, we will use the principal amount that would be due and payable on the action date if the maturity of the notes were accelerated to that date because of a default or such other amount not in excess of the face amount, as may be specified in the applicable supplement; or
- For notes with a principal amount denominated in one or more currencies other than U.S. dollar or currency units, we will use the U.S. dollar equivalent, which we will determine.

### **Form, Exchange and Transfer of Notes**

We will issue each note in global — i.e., book-entry — form only, unless we specify otherwise in the applicable supplement. Notes in book-entry form will be represented by a global note registered in the name of a depository, which will be the holder of all the notes represented by the global note. The global note may also be a master global note. Those who own beneficial interests in a global note will do so through participants in the depository’s securities clearance system, and the rights of these indirect owners will be governed solely by the applicable procedures of the depository and its participants. We describe book-entry notes below under “Legal Ownership and Book-Entry Issuance”.

In addition, we will issue each note in registered form only, without coupons.

If any notes cease to be issued in global form, they will be issued:

- only in fully registered form;
- without interest coupons; and

- unless we indicate otherwise in your supplement, in denominations of \$10,000 and integral multiples of \$1,000 in excess thereof.

Holders may exchange their notes for notes of smaller denominations or combine them into fewer notes of larger denominations, as long as the total principal amount is not changed. You may not exchange your notes for notes of a different series or having different terms, unless your supplement says you may.

Holders may exchange or transfer their notes at the office of the fiscal agent. They may also replace lost, stolen, destroyed or mutilated notes at that office. We have appointed the fiscal agent to act as our agent for registering notes in the names of holders and transferring and replacing notes. 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, exchange or replace their notes, but they may be required to pay for any tax or other governmental charge associated with the exchange, transfer or replacement. In case of replacement of a lost, stolen, destroyed or mutilated note, the holder may also be required to pay any other expenses, including the fees and expenses of the fiscal agent, connected with issuance of a new note. 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 notes.

If we have designated additional transfer agents for your notes, they will be named in your 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 any notes are redeemable and we redeem less than all of those notes then outstanding, we may block the transfer or exchange of those notes 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 note selected for redemption, except that we will continue to permit transfers and exchanges of the unredeemed portion of any note being partially redeemed.

If a note is issued as a global note, only the depositary — e.g., DTC, Euroclear or Clearstream — will be entitled to transfer and exchange the notes as described in this subsection, since the depositary will be the sole holder of the notes.

## **Payment Mechanics for Notes**

### ***Who Receives Payment?***

If interest is due on a note on an interest payment date, we will pay the interest to the person in whose name the notes are 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 notes. If principal or another amount besides interest is due on a note at maturity, we will pay the amount to the holder of the notes against surrender of the notes at a proper place of payment or, in the case of a global note, in accordance with the policies of the applicable depositary, DTC, Euroclear or Clearstream, as applicable.

### ***Payment and Record Dates for Interest***

Unless we specify otherwise in the applicable supplement, interest on any fixed rate note 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 note will be the May 1 or November 1 next preceding that interest payment date. Unless we specify otherwise in the applicable supplement, the regular record date relating to an interest payment date for any floating rate note 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 above. 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 and unless otherwise specified in the applicable supplement, the record date for any payment date for notes in book-entry form will be the fifth business day prior to the payment date.

Unless we specify otherwise in this offering circular or in the applicable supplement, the term “days” refers to calendar days.

### ***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 Notes.*** We will make payments on a global note in accordance with the applicable policies as in effect from time to time of the depository, which will be DTC, Euroclear or Clearstream or some other depository. Unless we specify otherwise in the applicable supplement, The Depository Trust Company, New York, New York, known as DTC, will be the depository for all notes in global form. Under those policies, we will pay directly to the depository, or its nominee, and not to any indirect owners who own beneficial interests in the global note. An indirect owner’s right to receive those payments will be governed by the rules and practices of the depository and its participants, as described below in the section entitled “Legal Ownership and Book-Entry Issuance — What Is a Global Note?”.

***Payments on Non-Global Notes.*** We will make payments on a note 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 fiscal agent’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 notes. 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 note has a face amount of at least \$1,000,000 (or the equivalent in another currency) and the holder asks us to do so, we will pay any amount that becomes due on the notes 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 notes are 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 notes.

### ***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 Notes.*** We will make payments on a global note in the applicable specified currency in accordance with the applicable policies as in effect from time to time of the depository, which will be DTC, Euroclear or Clearstream or some other depository.

*Indirect owners of a global note 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 Notes.** Except as described in the last paragraph under this heading, we will make payments on notes 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 fiscal agent. 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 notes are 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 fiscal agent'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 fiscal agency agreement 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 notes 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 the applicable supplement specifies that the 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 fiscal agent 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 notes 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 supplement, holders are not entitled to receive payments in U.S. dollars of an amount due in another currency, either on a global note or a non-global note.

If your supplement specifies that holders may request that we make payments in U.S. dollars of an amount due in another currency, either on a global note or a non-global note as described above, 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.

In the event that FDIC insurance applies, the insured amount payable on your notes will be determined and paid in an amount in U.S. dollars that is equivalent in value to the amount of the deposit denominated in the foreign currency as of the close of business on the date of default of Goldman Sachs Bank USA.

**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 note, 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 note or the fiscal agency agreement.

**Exchange Rate Agent.** If we issue notes 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 notes are originally issued in the applicable supplement. We have initially appointed Goldman, Sachs & Co. to perform this role. We may change the exchange rate agent from time to time after the original issue date of the notes 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 this offering circular or the applicable 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***

Unless specified otherwise in the applicable supplement, if any payment is due on notes 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 fiscal agency agreement as if they were made on the original due date. Postponement of this kind will not result in a default under any note or the fiscal agency agreement, and, unless otherwise specified in the applicable supplement, no interest will accrue on the postponed amount from the original due date to the next day that is a business day.

### ***Paying Agent***

We may appoint one or more financial institutions to act as our paying agents, at whose designated offices notes 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 fiscal agent, at its corporate trust office in New York City, as the paying agent. We must notify the fiscal agent 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, as an unsecured general creditor, only to us for payment and not to the fiscal agent, any other paying agent or anyone else.

## **Notices**

Notices to be given to holders of a global note 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 notes not in global form will be sent by mail to the respective addresses of the holders as they appear in the fiscal agent'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 Fiscal Agent**

The Bank of New York Mellon is initially serving as the fiscal agent for our notes issued under the fiscal agency agreement. As such, the fiscal agent is acting as our agent, not as trustee or other fiduciary for the holders of the notes. The Bank of New York Mellon has provided commercial banking and other services for The Goldman Sachs Group, Inc. and its affiliates in the past and may do so in the future. Among other things, The Bank of New York Mellon provides The Goldman Sachs Group, Inc. with a line of credit, holds notes issued by The Goldman Sachs Group, Inc. and serves as trustee or agent with regard to other debt obligations (including senior and subordinated debt obligations) of The Goldman Sachs Group, Inc. or its subsidiaries.

## THE GUARANTEE AND THE GUARANTEE AGREEMENT

The Goldman Sachs Group, Inc. has filed a registration statement (including a prospectus) with the SEC relating to the guarantee. The registration statement does not apply to the notes that are subject to the guarantee. Before you invest in the notes, you should read the prospectus in that registration statement and the periodic reports and other documents that The Goldman Sachs Group, Inc. has filed with the SEC for more complete information about The Goldman Sachs Group, Inc. and the guarantee. You may get these documents for free by visiting EDGAR on the SEC Web site at [www.sec.gov](http://www.sec.gov). Alternatively, The Goldman Sachs Group, Inc., Goldman Sachs Bank USA or any agent participating in the offering of the notes will arrange to send you the prospectus if you request it by calling toll-free 1-866-471-2526 or email: [prospectus-ny@ny.email.gs.com](mailto:prospectus-ny@ny.email.gs.com).

### Description of the Guarantee

Under a General Guarantee Agreement, dated December 1, 2008, as the same may be amended from time to time (which we refer to as the “guarantee agreement”), The Goldman Sachs Group, Inc. unconditionally and, subject to the provisions thereof, irrevocably guarantees to each holder of notes the complete payment when due, whether by acceleration or otherwise, of all payment obligations of Goldman Sachs Bank USA in connection with such notes.

The Goldman Sachs Group, Inc. will not be liable to any holder in respect of any note for any amount in excess of the amount which Goldman Sachs Bank USA actually owes to such holder in respect of such note, and The Goldman Sachs Group, Inc. may assert any defense to payment available to Goldman Sachs Bank USA other than those arising in a bankruptcy or insolvency proceeding. Upon payment of all due and unpaid obligations owing to a holder in respect of any note, The Goldman Sachs Group, Inc. will be subrogated to the rights of such holder against Goldman Sachs Bank USA with respect to such obligations, and such holder will be obligated to take at The Goldman Sachs Group, Inc.’s expense such steps as The Goldman Sachs Group, Inc. may reasonably request to implement such subrogation. The guarantee will continue to be effective or reinstated as to any holder of notes if at any time payment of such notes or interest thereon is rescinded or must otherwise be restored or returned by such holder upon bankruptcy or insolvency, dissolution or reorganization of Goldman Sachs Bank USA.

The Goldman Sachs Group, Inc. may not assign its rights or delegate its obligations under the guarantee agreement with respect to any holder of notes, in whole or in part, without the prior written consent of such holder. However, this prohibition on assignment or delegation is subject to an important exception. The Goldman Sachs Group, Inc. may assign and delegate all of its rights and obligations under the guarantee agreement to any partnership, corporation, trust or other organization in any form that succeeds to all or substantially all of its assets and business and assumes such obligations by contract, operation of law or otherwise. Upon any such delegation and assumption of obligations, The Goldman Sachs Group, Inc. will be relieved of and fully discharged from all obligations under the guarantee agreement, whether such obligations arose before or after such delegation and assumption.

The Goldman Sachs Group, Inc. may amend or terminate the guarantee as to any holder or holders of any note or notes, in whole or in part, at any time and from time to time as provided in the guarantee agreement, *provided* that no such amendment or termination may adversely affect the rights of any holder of notes relating to any obligations under such notes incurred before the effectiveness of such amendment or termination.

The guarantee agreement is governed by New York law.

The guarantee agreement has not been and will not be qualified as an indenture, and there is not and will not be any trustee, qualified under the Trust Indenture Act with respect to the guarantee agreement or the guarantee of the notes. Therefore, the beneficiaries of the guarantee of the notes will not have the protection of the Trust Indenture Act with respect to the guarantee.

The guarantee is not insured by the FDIC and is not guaranteed under the FDIC’s Temporary Liquidity Guarantee Program.

The guarantee of the notes is governed by and subject to the guarantee agreement, and any payments The Goldman Sachs Group, Inc. may become obligated to make under the guarantee will be made on the terms and as provided in the guarantee agreement. Please note that The Goldman Sachs Group, Inc. or its agent may require any person claiming payment under the guarantee in respect of any note to provide evidence reasonably satisfactory to it or its agent that such person is the holder of such note or is otherwise entitled to such payment in lieu of the holder. The Goldman Sachs Group, Inc. has filed with the SEC the guarantee agreement as exhibit 4.80 to the Post-Effective Amendment No. 2 to the Registration Statement on Form F-3 of The Goldman Sachs Group, Inc. (File No. 333-154173), filed on March 19, 2009, and we encourage you to read it carefully.

### **Considerations Relating to the Guarantee**

In the event of a liquidation or other resolution of Goldman Sachs Bank USA and payment on the notes by the FDIC under FDIC insurance, the FDIC will be subrogated to all rights of holders of the notes against Goldman Sachs Bank USA under the notes, including their rights against The Goldman Sachs Group, Inc. under the guarantee agreement, to the extent of such payment.

The notes will be deposit liabilities of Goldman Sachs Bank USA, unconditionally and irrevocably guaranteed by The Goldman Sachs Group, Inc. pursuant to the guarantee. Except to the extent FDIC insurance is available from the FDIC, no entity other than Goldman Sachs Bank USA (or its receiver or conservator, if applicable, to the extent of any available remaining assets of Goldman Sachs Bank USA) or The Goldman Sachs Group, Inc. will have any obligation, contingent or otherwise, to make any payments in respect of the notes. Accordingly, Goldman Sachs Bank USA and The Goldman Sachs Group, Inc. will be dependent on their respective assets and earnings to generate the funds necessary to meet their respective obligations with respect to the notes. If Goldman Sachs Bank USA's and The Goldman Sachs Group, Inc.'s assets and earnings are not adequate, Goldman Sachs Bank USA and The Goldman Sachs Group, Inc. may be unable to make payments in respect of the notes and you could lose that part of your deposit, if any, that is not covered by FDIC insurance.

The Goldman Sachs Group, Inc.'s assets consist principally of interests in its subsidiaries, including Goldman Sachs Bank USA, through which The Goldman Sachs Group, Inc. conducts its businesses. Consequently, The Goldman Sachs Group, Inc.'s right to participate as an equity holder in any distribution of assets of any of its subsidiaries upon the subsidiary's liquidation or otherwise — and thus the ability of holders of notes, as beneficiaries of the guarantee, to benefit from any such distribution — is junior to the rights of creditors of the subsidiary, except to the extent that any claims The Goldman Sachs Group, Inc. may have as a creditor of the subsidiary are recognized. In addition, dividends, loans and advances to The Goldman Sachs Group, Inc. from some of its subsidiaries, including Goldman, Sachs & Co., are restricted by net capital requirements under the U.S. Securities Exchange Act of 1934 and under rules of securities exchanges and other regulatory bodies. Dividends, loans and advances to The Goldman Sachs Group, Inc. from its banking subsidiaries, including Goldman Sachs Bank USA, are also subject to regulatory restrictions under applicable federal and state banking laws and regulations. Furthermore, because some of The Goldman Sachs Group, Inc.'s subsidiaries, including Goldman, Sachs & Co., are partnerships in which The Goldman Sachs Group, Inc. is a general partner or the sole limited partner, it may be liable for their obligations. The Goldman Sachs Group, Inc. also guarantees many obligations of Goldman Sachs Bank USA other than the notes and many obligations of its other subsidiaries. Any liability The Goldman Sachs Group, Inc. may have for its subsidiaries' obligations could reduce its assets that are available to satisfy its creditors, including holders of notes as beneficiaries of the guarantee.

For a description of the risks relating to The Goldman Sachs Group, Inc.'s businesses and for information on The Goldman Sachs Group, Inc.'s credit ratings, see The Goldman Sachs Group, Inc.'s Annual Report on Form 10-K for the fiscal year ended November 28, 2008 and any subsequent reports filed with the SEC, which are incorporated by reference in this offering circular.

### **Information about The Goldman Sachs Group, Inc.**

This offering circular incorporates by reference 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) by The Goldman Sachs Group, Inc.:

- (1) Annual Report on Form 10-K for the fiscal year ended November 28, 2008 (File No. 001-14965);
- (2) Amendment No. 1 on Form 10-K/A to the Annual Report on Form 10-K for the fiscal year ended November 28, 2008, dated and filed on March 27, 2009 (File No. 001-14965);
- (3) Quarterly Report on Form 10-Q for the quarter ended March 27, 2009 (File No. 001-14965);
- (4) Current Report on Form 8-K, dated November 25, 2008 and filed on December 1, 2008 (File No. 001-14965);
- (5) Current Report on Form 8-K, dated December 15, 2008 and filed on December 16, 2008 (File No. 001-14965);
- (6) Current Report on Form 8-K, dated February 12, 2009 and filed on February 17, 2009 (File No. 001-14965);
- (7) Current Report on Form 8-K, dated and filed on April 13, 2009 (File No. 001-14965);
- (8) Current Report on Form 8-K, dated and filed on April 13, 2009 (File No. 001-14965);
- (9) Current Report on Form 8-K, dated May 7, 2009 and filed on May 8, 2009 (File No. 001-14965);  
and
- (10) All documents filed by The Goldman Sachs Group, Inc. under Section 13(a), 13(c) 14 or 15(d) of the Exchange Act on or after the date of this offering circular and before the termination of the offering of notes under this offering circular.

You may read and copy any documents filed with the SEC by The Goldman Sachs Group, Inc. 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. The Goldman Sachs Group, Inc.'s filings with the SEC are also available to the public through the SEC's internet site at [www.sec.gov](http://www.sec.gov) and through the New York Stock Exchange, 20 Broad Street, New York, New York 10005, on which The Goldman Sachs Group, Inc.'s common stock is listed.

The Goldman Sachs Group, Inc. will provide without charge to each person, including any beneficial owner, to whom this offering circular is delivered, upon his or her written request, a copy of any or all documents referred to above which have been or may be incorporated by reference into this offering circular 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.

## LEGAL OWNERSHIP AND BOOK-ENTRY ISSUANCE

In this section, we describe special considerations that will apply to notes issued in global — i.e., book-entry — form. First we describe the difference between legal ownership and indirect ownership of notes. Then we describe special provisions that apply to global notes.

### Who Is the Legal Owner of a Note?

Each note 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 notes. We refer to those who have notes registered in their own names, on the books that we or the fiscal agent or other agent maintain for this purpose, as the “holders” of those notes. These persons are the legal holders of the notes. We refer to those who, indirectly through others, own beneficial interests in notes that are not registered in their own names as indirect owners of those notes. As we discuss below, indirect owners are not legal holders, and investors in notes issued in book-entry form or in street name will be indirect owners.

#### ***Book-Entry Owners***

Unless otherwise indicated in your supplement, we will issue each note in book-entry form only. This means notes will be represented by one or more global notes registered in the name of a financial institution that holds them as depository on behalf of other financial institutions that participate in the depository’s book-entry system. These participating institutions, in turn, hold beneficial interests in the notes on behalf of themselves or their customers.

Only the person in whose name a note is registered is recognized as the holder of that note. Consequently, for notes issued in global form, we will recognize only the depository as the holder of the notes and we will make all payments on the notes, including deliveries of any property other than cash, to the depository. The depository 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 depository 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 notes.

As a result, investors will not own notes directly. Instead, they will own beneficial interests in a global note, through a bank, broker or other financial institution that participates in the depository’s book-entry system or holds an interest through a participant. As long as the notes are issued in global form, investors will be indirect owners, and not holders, of the notes.

#### ***Street Name Owners***

In the future we may terminate a global note or issue notes initially in non-global form. In these cases, investors may choose to hold their notes in their own names or in street name. Notes 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 notes through an account he or she maintains at that institution.

For notes held in street name, we will recognize only the intermediary banks, brokers and other financial institutions in whose names the notes are registered as the holders of those notes and we will make all payments on those notes, 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 notes in street name will be indirect owners, not holders, of those notes.

#### ***Legal Holders***

Our obligations, as well as the obligations of the fiscal agent under the fiscal agency agreement and the obligations, if any, of any third parties employed by us or any other agent, run only to the holders of the notes. We do not have any obligations to investors who hold beneficial interests in global notes, 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 note or has no choice because we are issuing the notes only in global form.

For example, once we make a payment or give a notice to the holder, we have no further responsibility for that payment or notice even if that holder is required, under agreements with depository participants or customers or by law, to pass it along to the indirect owners but does not do so. Similarly, if we want to obtain the approval of the holders for any purpose — e.g., to amend the fiscal agency agreement or to relieve us of the consequences of a default or of our obligation to comply with a particular provision of the fiscal agency agreement — we would seek the approval only from the holders, and not the indirect owners, of the relevant notes. Whether and how the holders contact the indirect owners is up to the holders.

When we refer to “you” in this offering circular, we mean those who invest in the notes being offered by this offering circular, whether they are the holders or only indirect owners of those notes. When we refer to “your notes” in this offering circular, we mean the notes in which you will hold a direct or indirect interest.

### ***Special Considerations for Indirect Owners***

If you hold notes 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 notes;
- how it would handle a request for the holders’ consent, if ever required;
- whether and how you can instruct it to send you notes 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 notes if there were a default or other event triggering the need for holders to act to protect their interests; and
- if the notes are in book-entry form, how the depository’s rules and procedures will affect these matters.

### **What Is a Global Note?**

Unless otherwise indicated in your supplement, we will issue each note in book-entry form only. Each note issued in book-entry form will be represented by a global note that we 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 select for any note for this purpose is called the “depository” for that note. A note will usually have only one depository but it may have more.

Each note will have one or more of the following as the depositories:

- The Depository Trust Company, New York, New York, which is known as “DTC”;
- a financial institution holding the notes on behalf of Euroclear Bank SA/NV, which is known as “Euroclear”;
- a financial institution holding the notes on behalf of Clearstream Banking, société anonyme, which is known as “Clearstream”; and

- any other clearing system or financial institution named in the applicable supplement.

The depositaries named above may also be participants in one another's clearing systems. Thus, for example, if DTC is the depository for a global note, investors may hold beneficial interests in that note through Euroclear or Clearstream, as DTC participants.

A global note may represent one or any other number of individual notes. Generally, all notes represented by the same global note will have the same terms. We may, however, issue a global note that represents multiple notes that have different terms and are issued at different times. We call this kind of global note a master global note. Your supplement will not indicate whether your notes are represented by a master global note.

A global note may not be transferred to or registered in the name of anyone other than the depository or its nominee, unless special termination situations arise. We describe those situations below under “— Holder's Option to Obtain a Non-Global Note; Special Situations When a Global Note Will Be Terminated”. As a result of these arrangements, the depository, or its nominee, will be the sole registered owner and holder of all notes represented by a global note, and investors will be permitted to own only indirect interests in a global note. 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 depository or with another institution that does. Thus, an investor whose notes are represented by a global note will not be a holder of the notes, but only an indirect owner of an interest in the global note.

If the supplement for particular notes indicates that the notes will be issued in global form only, then the notes will be represented by a global note at all times unless and until the global note is terminated. We describe the situations in which this can occur below under “— Holder's Option to Obtain a Non-Global Note; Special Situations When a Global Note Will Be Terminated”. If termination occurs, we may issue the notes through another book-entry clearing system or decide that the notes may no longer be held through any book-entry clearing system.

### ***Special Considerations for Global Notes***

As an indirect owner, an investor's rights relating to a global note will be governed by the account rules of the depository 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 depository), as well as general laws relating to securities transfers. We do not recognize this type of investor or any intermediary as a holder of notes and instead deal only with the depository that holds the global note.

If notes are issued only in the form of a global note, an investor should be aware of the following:

- An investor cannot cause the notes to be registered in his or her own name, and cannot obtain non-global certificates for his or her interest in the notes, 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 notes and protection of his or her legal rights relating to the notes, as we describe above under “— Who Is the Legal Owner of a Note?”;
- An investor may not be able to sell interests in the notes 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 note in circumstances where certificates representing the notes must be delivered to the lender or other beneficiary of the pledge in order for the pledge to be effective;
- The depository's policies will govern payments, deliveries, transfers, exchanges, notices and other matters relating to an investor's interest in a global note, and those policies may change from time to time. We and the fiscal agent will have no responsibility for any aspect of the

depository's policies, actions or records of ownership interests in a global note. We and the fiscal agent also do not supervise the depository in any way;

- The depository will require that those who purchase and sell interests in a global note 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 depository's book-entry system and through which an investor holds its interest in the global notes, 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 note through Euroclear or Clearstream, when DTC is the depository, Euroclear or Clearstream, as applicable, will require those who purchase and sell interests in that note 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 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 Note; Special Situations When a Global Note Will Be Terminated***

If we issue any of those notes in book-entry form but we choose to give the beneficial owners of those notes the right to obtain non-global notes, any beneficial owner entitled to obtain non-global notes may do so by following the applicable procedures of the depository, 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 notes. 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 or our agent to prepare the requested certificate.

In addition, in a few special situations described below, a global note will be terminated and interests in it will be exchanged for certificates in non-global form representing the notes it represented. After that exchange, the choice of whether to hold the notes 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 note 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 Note?".

The special situations for termination of a global note are as follows:

- if the depository notifies us that it is unwilling, unable or no longer qualified to continue as depository for that global note and we do not appoint another institution to act as depository within 60 days;
- if we notify the fiscal agent that we wish to terminate that global note; or
- in the case of a global note representing notes issued under the fiscal agency agreement, if an event of default has occurred with regard to these notes and has not been cured or waived.

If a global note is terminated, only the depository, and not we or the fiscal agent, is responsible for deciding the names of the institutions in whose names the notes represented by the global note will be registered and, therefore, who will be the holders of those notes.

### ***Considerations Relating to Euroclear and Clearstream***

Euroclear and Clearstream are securities clearing 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 note. In addition, if DTC is the depositary for a global note, Euroclear and Clearstream may hold interests in the global note as participants in DTC.

As long as any global note is held by Euroclear or Clearstream, as depositary, you may hold an interest in the global note only through an organization that participates, directly or indirectly, in Euroclear or Clearstream. If Euroclear or Clearstream is the depositary for a global note and there is no depositary in the United States, you will not be able to hold interests in that global note through any securities clearance system in the United States.

Payments, deliveries, transfers, exchanges, notices and other matters relating to the notes made through Euroclear or Clearstream must comply with the rules and procedures of those systems. Those clearing systems could change their rules and procedures at any time. We have no control over those systems or their participants and we take no responsibility for their activities. Transactions between participants in Euroclear or Clearstream, on the 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 notes held through those clearing systems only on days when those systems are open for business. Those clearing 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 notes through these clearing 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 NOTES DENOMINATED OR PAYABLE IN OR LINKED TO A NON-U.S. DOLLAR CURRENCY**

If you intend to invest in non-U.S. dollar notes — e.g., notes 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 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. Notes 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 offering circular 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 Non-U.S. Dollar Notes Involves Currency-Related Risks***

An investment in non-U.S. dollar notes entails significant risks that are not associated with a similar investment in notes that are 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 notes 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 notes, including the principal payable at maturity or settlement value payable upon exercise. That in turn could cause the market value of the notes 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 Foreign Currency Exchange Rates and an Investment in Non-U.S. Dollar Notes***

Foreign 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 notes 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 note 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 notes 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 note 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 Notes May Permit Us to Make Payments in U.S. Dollars or Delay Payment If We Are Unable to Obtain the Specified Currency***

Notes 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 notes 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 Notes We May Offer — Payment Mechanics for Notes — 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 exchange rate agent, which may be an affiliate of ours. 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 notes payable in that currency.

***We Will Not Adjust Non-U.S. Dollar Notes to Compensate for Changes in Foreign Currency Exchange Rates***

Except as described above, we will not make any adjustment or change in the terms of non-U.S. dollar notes in the event of any change in foreign currency 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 notes will bear the risk that their investment may be adversely affected by these types of events.

***In a Lawsuit for Payment on Non-U.S. Dollar Notes, an Investor May Bear Currency Exchange Risk***

Our notes 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 notes 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 notes 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 non-U.S. dollar notes 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 note is denominated into U.S. dollars will depend upon various factors, including which court renders the judgment.

***Information About Foreign Currency Exchange Rates May Not Be Indicative of Future Performance***

If we issue non-U.S. dollar notes, we may include in the applicable 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 particular notes.

***Determinations Made by the Exchange Rate Agent***

All determinations made by the exchange rate agent will be in its sole discretion unless we state in the applicable 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. The Exchange Rate Agent will not have any liability for its determinations.

## CONSIDERATIONS RELATING TO INDEXED NOTES

We use the term “indexed notes” to mean any of the notes described in this offering circular, whose value is linked to an underlying asset or index or another property (including one or more securities or indices of securities). Indexed notes may present a high level of risk. Investors may not receive more than the face amount of their notes at maturity and, if specified in the applicable supplement, may lose part of their investment. In addition, the treatment of indexed notes 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 note. Thus, if you propose to invest in indexed notes, you should independently evaluate the federal income tax consequences of purchasing indexed notes that apply in your particular circumstances. You should also read “United States Taxation” below for a discussion of U.S. tax matters.

### ***Investors in Indexed Notes May Not Receive More Than the Face Amount of Their Notes at Maturity***

The amount payable on indexed notes 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, one or more indices and/or one or more 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 payable on indexed notes. The terms of particular indexed notes may or may not include a guaranteed return greater than the face amount at maturity or a minimum interest rate. Thus, if you purchase indexed notes that do not guarantee a return greater than the face amount or other amount you invested, at maturity you may receive only the face amount or other amount you invested and, if specified in your supplement, you may lose part of the amount you invested.

### ***The Return on Indexed Notes May Be Below the Return on Similar Securities***

Depending on the terms of particular indexed notes, as specified in the applicable supplement, you may not receive any periodic interest payments or receive only very low payments on such indexed notes. As a result, the overall return on such indexed notes may be less than the amount you would have earned by investing the principal or other amount you invest in such indexed notes in a non-indexed bank deposit that bears interest at a prevailing market fixed or floating rate.

### ***The Issuer of a Security or Currency That Serves as an Index Could Take Actions That May Adversely Affect Indexed Notes***

The issuer of a security that serves as an index or part of an index for an indexed note will have no involvement in the offer and sale of the indexed notes and no obligations to the holder of the indexed notes. 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 notes indexed to that security or to an index of which that security is a component.

If the index for indexed notes 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 notes and no obligations to the holder of the indexed notes. That government may take actions that could adversely affect the value of the notes. See “Considerations Relating to Notes 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 Non-U.S. Dollar Notes” above for more information about these kinds of government actions.

### ***Indexed Notes May Be Linked to a Volatile Index, Which May Adversely Affect Your Investment***

Some indices are highly volatile, which means that their value may change significantly, up or down, over a short period of time. It is impossible to predict the future performance of an index based on its historical performance. The amount of principal or interest that can be expected to become payable on indexed notes may vary substantially from time to time. Because the amounts payable with respect to indexed notes are generally calculated based on the price, 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 notes may be adversely affected by a fluctuation in the level of the relevant index.

The volatility of an index may be affected by financial, political, military 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 indexed notes.

### ***An Index to Which Notes Are Linked Could Be Changed or Become Unavailable***

Some indices compiled by The Goldman Sachs Group, Inc. or its other affiliates or third parties may consist of or refer to several or many different securities, commodities or currencies or other instruments or measures. The index sponsor 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. Changes to the composition of an index may result in a decrease in the value of or return on indexed notes that is linked to such index. The indices for our indexed notes may include published indices of this kind or customized indices developed by us or our affiliates in connection with particular issues of indexed notes.

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 particular indexed notes may allow us to delay determining the amount payable as principal or interest on such indexed notes, 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 note linked to an index of this kind, the value of the note, or the rate of return on it, may be lower than it otherwise would be.

Some indexed notes 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 indexed notes 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 notes or the rates of return on them.

### ***We May Engage in Hedging Activities that Could Adversely Affect Indexed Notes***

In order to hedge an exposure on particular indexed notes, 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 such notes, 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 the indexed notes. It is possible that we could achieve substantial returns from our hedging transactions while the value of the indexed notes may decline.

### ***Information About an Index or Indices May Not Be Indicative of Future Performance***

If we issue indexed notes, we may include historical information about the relevant index or indices in the applicable offering circular 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 or indices that may occur in the future.

### ***We May Have Conflicts of Interest Regarding Indexed Notes***

Goldman, Sachs & Co. and our other affiliates may have conflicts of interest with respect to some indexed notes. 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 notes 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 notes. 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 notes. By introducing competing products into the marketplace in this manner, we could adversely affect the value of indexed notes.

Goldman, Sachs & Co. or another of our affiliates may serve as calculation agent for the indexed notes and may have considerable discretion in calculating the amounts payable in respect of the notes. 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 note based on the index or the rate of return on the note.

***If You Purchase Indexed Notes, You Will Have No Rights with Respect to any Underlying Index to which Such Indexed Notes are Linked***

Investing in indexed notes will not make you a holder of the underlying asset or index or other property. As a result, you will not have any voting rights, any right to receive dividends or other distributions or any other rights with respect to any of the index components.

***Any Supplemental Payment on Your Notes Linked to an Underlying Asset or Index Will Not Be Covered by FDIC Insurance in Most Instances***

If the FDIC was appointed conservator or receiver of Goldman Sachs Bank USA prior to the maturity of any indexed note, the FDIC has taken the position that any supplemental payment on the indexed note referable to any underlying index, commodity, securities or other measures or instruments, as the case may be, between the date of deposit and the date the FDIC was appointed receiver or conservator is not insured because such supplemental payment is not calculated until the maturity of the notes and would not be reflected as accrued interest on the books of Goldman Sachs Bank USA at the time of such appointment. Although the indexed notes provide for the acceleration of the indexed notes upon certain events of insolvency of Goldman Sachs Bank USA, the FDIC may enforce the original terms of the indexed notes notwithstanding any such acceleration provision.

## UNITED STATES TAXATION

United States Internal Revenue Service Circular 230 Notice: To ensure compliance with Internal Revenue Service Circular 230, you are hereby notified that: (a) any discussion of U.S. federal tax issues contained or referred to in this offering circular or any document referred to herein is not intended or written to be used, and cannot be used by you for the purpose of avoiding penalties that may be imposed on you under the United States Internal Revenue Code; (b) such discussion is written for use in connection with the promotion or marketing of the transactions or matters addressed herein; and (c) you should seek advice based on your particular circumstances from an independent tax advisor.

This section describes the material United States federal income tax consequences of owning the notes we are offering and it is the opinion of Sullivan & Cromwell LLP, United States tax counsel to Goldman Sachs Bank USA and The Goldman Sachs Group, Inc. It applies to you only if you hold your notes as capital assets for tax purposes. This section does not apply to you if you are a member of a class of holders to which special rules apply, 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 tax-exempt organization;
- a person that owns a note as a hedge or that is hedged against interest rate or currency risks;
- a person that owns notes 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 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 may change, possibly on a retroactive basis. If a partnership holds the notes, 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 notes should consult its tax advisor with regard to the United States federal income tax treatment of an investment in the notes.

*Please consult your own tax advisor concerning the consequences of owning these notes in your particular circumstances under the Internal Revenue Code and the laws of any other taxing jurisdiction.*

## 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 note for United States federal income tax purposes 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***

#### General

Except as described below in the case of interest on a discount note that is not qualified stated interest, as described below under “— Original Issue Discount — General”, you will be taxed on any interest on your notes, 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 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 notes, 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 note, other than a short-term note with a term of one year or less, it will be treated as a discount note issued at an original issue discount if the amount by which the note's stated redemption price at maturity exceeds its issue price is more than a de minimis amount. Generally, a note's issue price will be the first price at which a substantial amount of notes included in the issue of which the notes 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 note's stated redemption price at maturity is the total of all payments provided by the notes that are not payments of qualified stated interest. Generally, an interest payment on a note is qualified stated interest if it is one of a series of stated interest payments on a note 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 notes. There are special rules for variable rate notes that are discussed under "— Variable Rate Notes".

In general, your notes are not a discount note if the amount by which its stated redemption price at maturity exceeds its issue price is less than the de minimis amount of  $\frac{1}{4}$  of 1 percent of its stated redemption price at maturity multiplied by the number of complete years to its maturity. Your notes will have de minimis original issue discount if the amount of the excess is less than the de minimis amount. If your notes has de minimis original issue discount, you must include the de minimis amount in income as stated principal payments are made on the notes, 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 stated principal payment by multiplying the total amount of your note'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 notes.

Generally, if your discount note matures more than one year from its date of issue, you must include original issue discount, or OID, in income before you receive cash attributable to that income. The amount of OID that you must include in income is calculated using a constant-yield method, and generally you will include increasing amounts of OID in income over the life of your notes. More specifically, you can calculate the amount of OID that you must include in income by adding the daily portions of OID with respect to your discount note for each day during the taxable year or portion of the taxable year that you hold your discount note. You can determine the daily portion by allocating to each day in any accrual period a proportionate portion of the OID allocable to that accrual period. You may select an accrual period of any length with respect to your discount note and you may vary the length of each accrual period over the term of your discount note. However, no accrual period may be longer than one year and each scheduled payment of interest or principal on the discount note must occur on either the first or final day of an accrual period.

You can determine the amount of OID allocable to an accrual period by:

- multiplying your discount note's adjusted issue price at the beginning of the accrual period by your note's yield to maturity, and then

- subtracting from this figure the sum of the payments of qualified stated interest on your notes allocable to the accrual period.

You must determine the discount note'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 discount note's adjusted issue price at the beginning of any accrual period by:

- adding your discount note's issue price and any accrued OID for each prior accrual period, and then
- subtracting any payments previously made on your discount note that were not qualified stated interest payments.

If an interval between payments of qualified stated interest on your discount note contains more than one accrual period, then, when you determine the amount of OID 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, proportionately 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 before the first day of the accrual period but that is not payable until the end of the interval. You may compute the amount of OID 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 OID allocable to the final accrual period is equal to the difference between:

- the amount payable at the maturity of your notes, other than any payment of qualified stated interest, and
- your note's adjusted issue price as of the beginning of the final accrual period.

#### Acquisition Premium

If you purchase your notes for an amount that is less than or equal to the sum of all amounts, other than qualified stated interest, payable on your notes after the purchase date but is greater than the amount of your note'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 OID by a fraction equal to:

- the excess of your adjusted basis in the notes immediately after purchase over the adjusted issue price of the note

divided by:

- the excess of the sum of all amounts payable, other than qualified stated interest, on the notes after the purchase date over the note's adjusted issue price.

#### Pre-Issuance Accrued Interest

An election may be made to decrease the issue price of your notes by the amount of pre-issuance accrued interest if:

- a portion of the initial purchase price of your notes are attributable to pre-issuance accrued interest,
- the first stated interest payment on your notes are to be made within one year of your note'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 notes.

Notes Subject to Contingencies Including Optional Redemption

Your notes are 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 the contingency relates to payments of interest or of principal. If you own this kind of note, you must determine the yield and maturity of your notes 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 the 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 notes in accordance with the general rules that govern contingent payment obligations. We will describe these rules in the applicable supplement.

Notwithstanding the general rules for determining yield and maturity, if your notes are 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 notes 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 notes, 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 notes.

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 notes for the purposes of those calculations by using any date on which your notes 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 notes 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 notes are repaid as a result of this change in circumstances and solely to determine the amount and accrual of OID, you must redetermine the yield and maturity of your notes by treating your notes as having been retired and reissued on the date of the change in circumstances for an amount equal to your note'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 notes using the constant-yield method described above under “— General”, with the modifications described below. For purposes of this election, interest will include stated interest, OID, de minimis original issue discount, market discount, de minimis market discount and unstated interest, as adjusted by any amortizable bond premium, described below under “— Notes Purchased at a Premium,” or acquisition premium.

If you make this election for your notes, then, when you apply the constant-yield method:

- the issue price of your notes will equal your cost,
- the issue date of your notes will be the date you acquired it, and
- no payments on your notes will be treated as payments of qualified stated interest.

Generally, this election will apply only to the notes for which you make it; however, if the notes 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 after that year. Additionally, if you make this election for a market discount note, 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 note or the deemed elections with respect to amortizable bond premium or market discount notes without the consent of the Internal Revenue Service.

### **Variable Rate Notes**

Your notes will be a variable rate note if:

- your note’s issue price does not exceed the total noncontingent principal payments by more than the lesser of:
  - .015 multiplied by the product of the total noncontingent principal payments and the number of complete years to maturity from the issue date, or
  - 15 percent of the total noncontingent principal payments; and
- your notes provides for stated interest, compounded or paid at least annually, only at:
  - one or more qualified floating rates,
  - a single fixed rate and one or more qualified floating rates,
  - a single objective rate, or
  - a single fixed rate and a single objective rate that is a qualified inverse floating rate.

Your notes 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 notes are denominated; or
- the rate is equal to a rate of that kind multiplied by either:
  - a fixed multiple that is greater than 0.65 but not more than 1.35; or
  - 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 notes are set no earlier than three months before the first day on which that value is in effect and no later than one year following that first day.

If your notes 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 notes, the qualified floating rates together constitute a single qualified floating rate.

Your notes 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 the restrictions are fixed throughout the term of the notes or are not reasonably expected to significantly affect the yield on the notes.

Your notes 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 notes are set no earlier than three months before the first day on which that value is in effect and no later than one year following that first day.

Your notes 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 note's term will be either significantly less than or significantly greater than the average value of the rate during the final half of your note'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 notes will also have a single qualified floating rate or an objective rate if interest on your notes are 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 notes 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.

CD rate notes, CMS rate notes, CMT rate notes, commercial paper rate notes, EURIBOR notes, federal funds rate notes, LIBOR notes, prime rate notes, treasury rate notes, and 11th district cost of funds rate notes generally will be treated as variable rate notes under these rules.

In general, if your variable rate note 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 notes are qualified stated interest. In this case, the amount of OID, 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 notes.

If your variable rate note 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 OID accruals on your notes by:

- determining a fixed rate substitute for each variable rate provided under your variable rate note,
- constructing the equivalent fixed rate debt instrument, using the fixed rate substitute described above,
- determining the amount of qualified stated interest and OID 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 note, 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 notes.

If your variable rate note 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 OID accruals by using the method described in the previous paragraph. However, your variable rate note will be treated, for purposes of the first three steps of the determination, as if your notes 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 note 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 Notes***

In general, if you are an individual or other cash basis United States holder of a note with a maturity of one year or less, a “short-term note”, you are not required to accrue OID, as specially described in the following paragraph 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 OID on short-term notes 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 OID in income currently, any gain you realize on the sale or retirement of your short-term note will be ordinary income to the extent of the accrued OID, which will be determined on a straight-line basis unless you make an election to accrue the OID under the constant-yield method, through the date of sale or retirement. However, if you are not required and do not elect to accrue OID on your short-term notes, you will be required to defer deductions for interest on borrowings allocable to your short-term notes in an amount not exceeding the deferred income until the deferred income is realized.

When you determine the amount of OID subject to these rules, you must include all interest payments on your short-term note, including stated interest, in your short-term note’s stated redemption price at maturity.

### ***Non-U.S. Dollar Currency Discount Notes***

If your discount note is denominated or payable in a non-U.S. dollar currency, you must determine OID for any accrual period on your discount note in the non-U.S. dollar currency and then translate the amount of OID into U.S. dollars in the same manner as stated interest accrued by an accrual basis United States holder, as described under “— United States Holders — Payments of Interest”. You may recognize ordinary income or loss when you receive an amount attributable to OID in connection with a payment of interest or the sale or retirement of your notes.

## ***Market Discount***

You will be treated as if you purchased your notes, other than a short-term note, at a market discount, and your notes will be a market discount note if the difference between the note's stated redemption price at maturity or, in the case of a discount note, the note's revised issue price, and the price you paid for your notes is equal to or greater than  $\frac{1}{4}$  of 1 percent of your note's stated redemption price at maturity or revised issue price, respectively, multiplied by the remaining number of complete years to the note's maturity. To determine the revised issue price of your notes for these purposes, you generally add any OID that has accrued on your notes to its issue price.

If your note's stated redemption price at maturity or, in the case of a discount note, its revised issue price, exceeds the price you paid for the notes by less than  $\frac{1}{4}$  of 1 percent multiplied by the number of complete years to the note'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 note as ordinary income to the extent of the accrued market discount on your notes. Alternatively, you may elect to include market discount in income currently over the life of your notes. 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 Internal Revenue Service. If you own a market discount note and do not make this election, you will generally be required to defer deductions for interest on borrowings allocable to your notes in an amount not exceeding the accrued market discount on your notes until the maturity or disposition of your notes.

You will accrue market discount on your market discount note 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 notes with respect to which it is made and you may not revoke it.

## ***Notes Purchased at a Premium***

If you purchase your notes 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 notes by the amount of amortizable bond premium allocable to that year, based on your note's yield to maturity. If your notes are 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 exchange rates between the time your amortized bond premium offsets interest income and the time of the acquisition of your notes are 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 acquire after that year, and you may not revoke it without the consent of the Internal Revenue Service. See also "— Original Issue Discount — Election to Treat All Interest as Original Issue Discount".

## ***Purchase, Sale and Retirement of the Notes***

Your tax basis in your notes will generally be the U.S. dollar cost, as defined below, of your notes, adjusted by:

- adding any OID or market discount, de minimis original issue discount and de minimis market discount previously included in income with respect to your notes, and then
- subtracting any payments on your notes that are not qualified stated interest payments and any amortizable bond premium applied to reduce interest on your notes.

If you purchase your notes with non-U.S. dollar currency, the U.S. dollar cost of your notes 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 notes are traded on an established securities market, as defined in the applicable Treasury regulations, the U.S. dollar cost of your notes 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 notes equal to the difference between the amount you realize on the sale or retirement and your tax basis in your notes. If your notes are sold or retired for an amount in non-U.S. dollar currency, the amount you realize will be the U.S. dollar value of that amount on the date the notes are 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 non-U.S. dollar currency on the settlement date of the sale.

You will recognize capital gain or loss when you sell or retire your notes, except to the extent:

- described above under “— Original Issue Discount — Short-Term Notes” 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 the taxable year beginning before January 1, 2011 is generally taxed at a minimum 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 note 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 notes or on the sale or retirement of your notes, 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 notes 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 offering circular 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 note 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 note.

If you are a United States holder, this subsection does not apply to you and you should refer to “— United States Holders” above.

This discussion does not apply to notes that provide for contingent interest payments and the tax treatment on holders of such notes will be provided in the applicable supplement to this offering circular.

Subject to the discussion of backup withholding below, if you are a United States alien holder of a note, we and our paying agents will not deduct United States withholding tax from:

- payments of interest on a note and
- any gain realized on the sale or exchange of a note.

In addition, a note 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 purposes of the United States federal estate tax as a result of the individual’s death if the income on the note would not have been effectively connected with a United States trade or business of the individual at the individual’s death.

### **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 notes are denominated in a foreign currency, a United States holder (or a United States alien holder that holds the notes in connection with a U.S. trade or business) that recognizes a loss with respect to the notes 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 notes.

### **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 Internal Revenue Service all payments of principal, any premium and interest on your notes, and the accrual of OID on a discount note. In addition, we and other payors are required to report to the Internal Revenue Service any payment of proceeds of the sale of your notes before maturity within the United States. Additionally, backup withholding will apply to any payments, including payments of OID, if you fail to provide an accurate taxpayer identification number, or you are notified by the 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 OID, made by us and other payors to you and payments of the proceeds from the sale of notes effected at a United States office of a broker will not be subject to backup withholding and information reporting, provided that:

- 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. 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 non-United States person that is, for United States federal income tax purposes, the beneficial owner of the payment on the notes in accordance with U.S. Treasury regulations, or

- you otherwise establish an exemption.

If you fail to establish an exemption and the payor or broker does not possess adequate documentation of your status as a non-United States person, payments on the notes may be subject to information reporting and backup withholding. However, backup withholding will not apply with respect to payments of proceeds 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) unless the broker has actual knowledge that you are a United States person.

In general, payment of the proceeds from the sale of notes 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 notes 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 notes 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. the 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 notes 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.

## 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 notes.*

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, Keogh plans 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 applies to the transaction. The assets of a Plan may include assets held in the general account of an insurance company that are deemed “plan assets” under ERISA or assets of certain investment vehicles in which the Plan invests. Each of Goldman Sachs Bank USA and certain of its affiliates may be considered a “party in interest” or a “disqualified person” with respect to many Plans, and, accordingly, prohibited transactions may arise if the notes are acquired by or on behalf of a Plan unless those notes 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 Section 408(b)(17) of ERISA and Section 4975(d)(20) of the Code where the Plan receives no less and 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 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 notes, 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 notes, (b) none of the purchase, holding or disposition of the notes or the exercise of any rights related to the notes will result in a non-exempt prohibited transaction under ERISA or the Code (or, with respect to a governmental plan, under any similar applicable law or regulation), and (c) neither Goldman Sachs Bank USA nor any of its affiliates is a “fiduciary” (within the meaning of Section 3(21) of ERISA or, with respect to a governmental plan, under any similar applicable law or regulation) with respect to the purchaser or holder in connection with such person’s acquisition, disposition or holding of the notes, or as a result of any exercise by Goldman Sachs Bank USA or any of its affiliates of any rights in connection with the notes, and no advice provided by Goldman Sachs Bank USA 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 notes and the transactions contemplated with respect to the notes.

*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) and propose to invest in the notes described in this offering circular, you should consult your legal counsel.*

## PLAN OF DISTRIBUTION

### *Initial Offering and Sale of Notes*

Unless specifically stated otherwise, references in this section to the “notes” include the related guarantee. We may sell the notes from time to time in their initial offering as follows:

- through agents;
- to dealers or initial purchasers for resale;
- directly to purchasers; or
- through a combination of any of these methods of sale.

The notes 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, The Goldman Sachs Group, Inc., as the guarantor, and Goldman, Sachs & Co., as the agent, have entered into a distribution agreement with respect to the notes. Subject to certain conditions, the agent has agreed to use its reasonable efforts to solicit purchases of the notes. We have the right to accept offers to purchase notes and may reject any proposed purchase of the notes. The agent may also reject any offer to purchase notes. We will pay the agent a commission on any notes sold through the agent. If required, the applicable supplement will name any agents designated to solicit offers in addition to Goldman, Sachs & Co., and will include information about any commissions we may pay the agents in that offering.

We may also sell notes to the agent who will purchase the notes as principal for its own account. In that case, the agent will purchase the notes at a price equal to the issue price specified in your supplement, less a discount. The discount will equal the applicable commission on an agency sale of notes with the same stated maturity.

The agent may resell any notes it purchases as principal to other brokers or dealers at a discount, which may include all or part of the discount the agent received from us. If all the notes are not sold at the initial offering price, the agent may change the offering price and the other selling terms.

We may also sell notes directly to investors. We will not pay commissions on notes we sell directly.

The purchase price of the notes will be required to be paid in immediately available funds in New York City.

We may appoint agents, other than or in addition to Goldman, Sachs & Co., with respect to the notes. Any other agents may be named in the applicable supplement and may enter into the distribution agreement referred to above. The other agents may be affiliates or customers of Goldman Sachs Bank USA and may engage in transactions with and perform services for Goldman Sachs Bank USA in the ordinary course of business. Goldman, Sachs & Co. may resell notes to or through another of our affiliates, as selling agent.

From time to time, we may sell notes to one or more dealers acting as principals. The dealers may then resell those notes to the public.

We may sell notes from time to time to one or more initial purchasers, who would purchase the notes as principal for resale to the public, either on a firm-commitment or best-efforts basis. If we sell notes to initial purchasers, we may execute a purchase agreement with them at the time of sale and will name them in the applicable supplement. In connection with those sales, initial purchasers may be deemed to have received compensation from us in the form of discounts or commissions and may also receive commissions from purchasers of the notes for whom they may act as agents. Initial purchasers may resell the notes to or through dealers, and those dealers may receive compensation in the form of discounts, concessions or commissions from the initial purchasers and/or commissions from purchasers for whom they may act as agents. The applicable supplement may include information about compensation we pay to initial purchasers, and any discounts, concessions or commissions initial purchasers allow to participating dealers, in connection with an offering of notes.

In connection with an offering, the initial purchasers may purchase and sell notes 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 initial purchasers of a greater number of notes 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 notes while an offering is in progress.

The initial purchasers also may impose a penalty bid. This occurs when a particular initial purchaser repays to the initial purchasers a portion of the underwriting discount received by it because the initial purchasers have repurchased notes sold by or for the account of that initial purchaser in stabilizing or short-covering transactions.

These activities by the initial purchasers may stabilize, maintain or otherwise affect the market price of the notes. As a result, the price of the notes 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 initial purchasers at any time. These transactions may be effected on an exchange or automated quotation system, if the notes are listed on that exchange or admitted for trading on that automated quotation system, or in the over-the-counter market or otherwise.

The notes have not been nor will they be registered under the Securities Act. The guarantee (but not the notes) has been registered under the Securities Act by The Goldman Sachs Group, Inc. and the prospectus relating thereto, dated March 19, 2009, has been filed with the SEC.

We may authorize initial purchasers, dealers and agents to solicit from third parties offers to purchase notes under contracts providing for payment and delivery on future dates. The applicable 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.

The initial purchasers, 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, Goldman Sachs Bank USA and its affiliates in the ordinary course of business. In addition, we expect to offer the notes to or through our affiliates, as initial purchasers, dealers or agents. Among our affiliates, Goldman, Sachs & Co. may offer the notes for sale in the United States and Goldman Sachs International, Goldman Sachs (Asia) L.L.C. and Goldman Sachs (Singapore) Pte. may offer the notes for sale outside the United States. Our affiliates may also offer the notes in other markets through one or more selling agents, including one another.

We and Goldman, Sachs & Co. are subsidiaries of The Goldman Sachs Group, Inc. NASD Rule 2720 imposes certain requirements when a member of the Financial Industry Regulatory Authority, Inc. (FINRA), such as Goldman, Sachs & Co., distributes an affiliated company's securities. Goldman, Sachs & Co. has advised us and The Goldman Sachs Group, Inc. that each particular offering of notes in which it participates will comply with the applicable requirements of Rule 2720.

Neither Goldman, Sachs & Co. nor any other FINRA member is permitted to sell notes 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 offering circular may be used by Goldman, Sachs & Co. in connection with offers and sales of the notes in market-making transactions. In a market-making transaction, Goldman, Sachs & Co. may resell notes it acquires from other holders, after the original offering and sale of the note. 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 Goldman Sachs Bank USA may also engage in transactions of this kind and may use this offering circular for this purpose. These affiliates may include, among others, Goldman Sachs International, Goldman Sachs (Asia) L.L.C. and Goldman Sachs (Singapore) Pte.

In the event that Goldman Sachs Bank USA, Goldman, Sachs & Co. or any other affiliate of Goldman Sachs Bank USA purchases notes in the secondary market, these purchases may be subject to certain regulatory conditions, including, if Goldman Sachs Bank USA, Goldman, Sachs & Co. or any other affiliate of Goldman Sachs Bank USA purchases notes from a holder within six days after the date of initial issuance of those notes, downward adjustments to the purchase price to be paid to such holder to account for early withdrawal penalties imposed by Goldman Sachs Bank USA pursuant to Regulation D of the Federal Reserve Board. Thus, if you sell a note to us or any of our affiliates shortly after you purchase and pay for it, you may receive a reduced price for your note.

Goldman Sachs Bank USA does not expect to receive any proceeds from market-making transactions. Goldman Sachs Bank USA 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 Goldman Sachs Bank USA.

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 your confirmation of sale indicates that your notes are being purchased in their original offering and sale, you may assume that you are purchasing your notes in a market-making transaction.

### ***Matters Relating to Initial Offering and Market-Making Resales***

Each note will be a new issue, and there will be no established trading market for any note prior to its original issue date. We may or may not list any particular notes on a securities exchange or quotation system. Goldman, Sachs & Co. and any other initial purchasers to whom we sell notes for public offering may make a market in those notes. However, neither Goldman, Sachs & Co. nor any initial purchaser 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 notes.

Unless otherwise indicated in the applicable supplement or confirmation of sale, the purchase price of the notes will be required to be paid in immediately available funds in New York City.

In this offering circular, an offering of notes refers to the initial offering of the notes made in connection with their original issuance, and does not refer to any subsequent resales of notes in market-making transactions.

## **VALIDITY OF THE NOTES**

The validity of the notes and the guarantee has been passed upon for Goldman Sachs Bank USA and The Goldman Sachs Group, Inc. by Sullivan & Cromwell LLP, New York, New York. The opinion of Sullivan & Cromwell LLP was based on assumptions about the absence of future changes in law and the authorizations of the notes and the guarantee and about other matters that may affect the validity of the notes or the guarantee but that could not be ascertained on the date of the opinion.

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 the common stock, preferred stock and debt securities of The Goldman Sachs Group, Inc. Sullivan & Cromwell LLP also performed services for us and The Goldman Sachs Group, Inc. in connection with the offering of the notes and the guarantee described in this offering circular.

No dealer, salesperson or other person is authorized to give any information or to represent anything not contained in this offering circular supplement. You must not rely on any unauthorized information or representations. This offering circular supplement is an offer to sell only the notes offered hereby, but only under circumstances and in jurisdictions where it is lawful to do so. The information contained in this offering circular supplement is current only as of its date.

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**\$561,000**

**Goldman Sachs Bank USA**

Deposit Notes  
unconditionally and irrevocably guaranteed  
by  
**The Goldman Sachs Group, Inc.**

Equity Index Basket-Linked Deposit Notes due  
2015  
(Linked to a Basket of Equity Indices Comprised  
of the Dow Jones Industrial Average® and the  
Dow Jones Euro STOXX 50® Index)

Deposit Notes



**Goldman, Sachs & Co.**



# The Goldman Sachs Group, Inc.

## Guarantee of Notes and Deposit Notes of Goldman Sachs Bank USA

Under a General Guarantee Agreement dated December 1, 2008, The Goldman Sachs Group, Inc. has guaranteed various obligations of Goldman Sachs Bank USA, our banking subsidiary, including notes and deposit notes to be issued by Goldman Sachs Bank USA at any time and from time to time. In this prospectus, we refer to these notes as the “notes” and these deposit notes as the “deposit notes”. We refer to the General Guarantee Agreement, as it may be amended from time to time, as the “guarantee agreement” and to our guarantee of the notes and deposit notes under the guarantee agreement as “our guarantee”.

Under our guarantee, we have guaranteed the performance of all payment obligations of Goldman Sachs Bank USA under the notes and deposit notes, on the terms set forth in the guarantee agreement. Each note or deposit note will be issued with such terms and upon such conditions as may be determined by Goldman Sachs Bank USA in the future. There is currently no limit on the amount of notes or deposit notes that may be issued by Goldman Sachs Bank USA.

Goldman Sachs Bank USA may issue and sell the notes and deposit notes to or through Goldman, Sachs & Co. and our other affiliates. All proceeds from the sale of the notes and deposit notes, net of fees, commissions or discounts, will be received by Goldman Sachs Bank USA. We will receive no proceeds or any other compensation from any person in respect of our guarantee.

Our guarantee is not a bank deposit and is not insured by the Federal Deposit Insurance Corporation or any other governmental agency, nor is it the obligation of, or guaranteed by, a bank. In addition, our guarantee will not be guaranteed under the Federal Deposit Insurance Corporation’s Temporary Liquidity Guarantee Program.

This prospectus relates solely to our guarantee of the notes and deposit notes. Neither this prospectus nor the registration statement of which it forms a part covers the notes or deposit notes.

**Neither the U.S. Securities and Exchange Commission nor any other regulatory body has approved or disapproved of our guarantee or passed upon the accuracy or adequacy of this prospectus. Any representation to the contrary is a criminal offense.**

We may use this prospectus in the initial sales of notes and deposit notes covered by our guarantee. In addition, Goldman, Sachs & Co. or any of our other affiliates may use this prospectus in market-making transactions in notes and deposit notes covered by our guarantee after their initial sale. ***Unless the purchaser is informed otherwise in the confirmation of sale, this prospectus is being used in a market-making transaction.***

## Goldman, Sachs & Co.

Prospectus dated March 19, 2009.

## AVAILABLE INFORMATION

The Goldman Sachs Group, Inc. is required to file annual, quarterly and current reports, proxy statements and other information with the U.S. Securities and Exchange Commission (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 an amendment to our registration statement on Form S-3 with the SEC relating to our guarantee covered by this prospectus. This prospectus is a part of the registration statement and does not contain all of the information in the registration statement. Whenever a reference is made in this prospectus to a contract or other document of The Goldman Sachs Group, Inc., 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 statement for a copy of the applicable contract or other document. You may review a copy of the registration statement 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 any of the SEC filings referenced in the list below. Any information referred to in this way in this prospectus or any prospectus supplement 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 our guarantee 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 28, 2008 (File No. 001-14965);
- (2) Current Report on Form 8-K, dated and filed on February 17, 2009 (File No. 001-14965);  
and

(3) All documents filed by The Goldman Sachs Group, Inc. under Section 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934 (the “Exchange Act”) on or after the date of this prospectus and before the termination of the offering of our guarantee under this prospectus.

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.

**If you purchase a note or deposit note, you are making an investment in both a security of Goldman Sachs Bank USA — the note or deposit note — and a security of The Goldman Sachs Group, Inc. — our guarantee of the note or deposit note. Thus you should consider carefully the applicable offering circular relating to the note or deposit note and this prospectus relating to our guarantee.**

*We describe the terms of our guarantee in this prospectus. We may file one or more prospectus supplements to this prospectus, which may amend or supplement the terms described herein. If the terms described in any such prospectus supplement are inconsistent with those described herein, the terms described in such prospectus supplement are controlling.*

*You should carefully read in their entirety this prospectus, any prospectus supplement to this prospectus, the documents incorporated by reference into this prospectus and any offering circular relating to the notes or deposit notes that you propose to buy, especially any description of investment risks that Goldman Sachs Bank USA may include in such offering circular. In addition, because an investment in notes and deposit notes includes an investment in our guarantee, you should carefully read the description of investment risks relating to an investment in the securities of The Goldman Sachs Group, Inc., including our guarantee, described under "Risk Factors" in Part I, Item 1A of our Annual Report on Form 10-K for the fiscal year ended November 28, 2008, which is incorporated by reference into this prospectus.*

*When we refer to "Goldman Sachs" in this prospectus, we mean The Goldman Sachs Group, Inc., together with its consolidated subsidiaries and affiliates. References to "The Goldman Sachs Group, Inc.," "we," "our" or "us" refer only to The Goldman Sachs Group, Inc. and not to its consolidated subsidiaries. References to "GS Bank" mean Goldman Sachs Bank USA.*

## **THE GOLDMAN SACHS GROUP, INC.**

The Goldman Sachs Group, Inc. is a leading global financial services firm providing investment banking, securities and investment management services to a substantial and diversified client base that includes corporations, financial institutions, governments and high-net-worth individuals. Founded in 1869, we have our headquarters 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.

On September 21, 2008, The Goldman Sachs Group, Inc. became a bank holding company under the U.S. Bank Holding Company Act of 1956, and the Board of Governors of the Federal Reserve System (the "Federal Reserve Board") became its primary federal regulator. On September 26, 2008, Goldman Sachs Bank USA became a member of the Federal Reserve System and is now regulated by the Federal Reserve Board and by the New York State Banking Department, and continues to be a member of the Federal Deposit Insurance Corporation (the "FDIC"). The deposits of Goldman Sachs Bank USA, including the deposit notes, are or will be insured by the FDIC to the extent provided by law. The debt obligations of Goldman Sachs Bank USA, including the notes, are not and will not be insured by the FDIC.

## **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 the rights of 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. Dividends, loans and advances to us from our banking subsidiaries, including GS Bank, are subject to regulatory restrictions under applicable federal and state banking laws and regulations. Furthermore, because some of our subsidiaries, including Goldman, Sachs & Co., are partnerships in which we are a general partner or the sole limited 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 creditors, including investors in our securities.

## **USE OF PROCEEDS**

We will receive no proceeds or any other compensation from any person in connection with the issuance of our guarantee.

We were advised by GS Bank that it intends to use the net proceeds from the sales of the notes and deposit notes in order to provide additional funds for its operations and for other general corporate purposes.

## **THE NOTES AND DEPOSIT NOTES**

The notes and deposit notes will be issued by GS Bank under one or more fiscal agency agreements from time to time in the future. Each note or deposit note will have such terms, including as to maturity, interest (if any) and other features, and will be offered and sold in such amount and upon such terms and conditions, as may be determined by GS Bank and described in a separate offering circular prepared by GS Bank at or before the time of issue. In general, the deposit notes will represent deposit liabilities of GS Bank and will be insured by the FDIC to the extent provided by applicable law, and the notes will be debt obligations of GS Bank and will not be insured. However, the specific terms of the notes and deposit notes, and of any FDIC insurance, may vary and you should read the applicable offering circular for a description of the actual terms of any note or deposit note and of its offering and sale. The brief references to the notes and deposit notes in this prospectus are qualified in their entirety by reference to the applicable offering circular, and if there is any inconsistency between this prospectus and the applicable offering circular with regard to the description of any note or deposit note, the latter shall control.

The notes and deposit notes will be offered and sold without registration under the Securities Act, in reliance on the exemption in Section 3(a)(2) of that Act, and will not have the protection of the Trust Indenture Act of 1939.

## **OUR GUARANTEE AND THE GUARANTEE AGREEMENT**

Under the guarantee agreement, we unconditionally and, subject to the provisions thereof, irrevocably guarantee to each person (a "Party") to whom GS Bank may owe any Obligations (as described below) from time to time, the complete payment when due, whether by acceleration or otherwise, of all payment obligations, whether now in existence or hereafter arising (other than non-recourse payment obligations), of GS Bank, including all payment obligations (other than non-recourse payment obligations) in connection with deposits, loans and other instruments specified in the guarantee agreement (collectively, the "Obligations"). The payment obligations of GS Bank in connection with the notes and the deposit notes are Obligations for this purpose.

Thus, as and to the extent provided in the guarantee agreement, we guarantee to each Party the complete payment when due of all payment obligations of GS Bank in connection with the notes and deposit notes. With respect to any note or deposit note, the Party entitled to the benefit of our guarantee of that instrument will be the person entitled to receive payment thereon, as provided in the terms of the instrument. Generally, the person entitled to receive payment will be the person in whose name the relevant note or deposit note is registered on the books of GS Bank or its agent. In the case of any note or deposit note issued in book-entry form, the registered owner will be the depository or its nominee. You should read the applicable offering circular for information about these matters.

The guarantee agreement provides that we may amend or terminate the guarantee agreement as to one Party, all Parties or a group of specified Parties, and as to one Obligation, all Obligations or specified Obligations (including in each case with respect to the notes or deposit notes), at any time if:

- we issue a press release reported by the Dow Jones News Service, the Associated Press or a comparable national news service; or
- we provide a written notice signed by us,

in each case stating that we are so amending or terminating the guarantee agreement. Any such termination or amendment will be effective with respect to a Party on the opening of business on the fifth New York business day after the earlier of the issuance of such press release or the receipt of such written notice, as applicable. However, no such amendment or termination may adversely affect the rights of any Party relating to any Obligations incurred prior to the effectiveness of such amendment or termination. Any such amendment or termination may become effective as to one Party whether or not it becomes effective as to another Party. Our guarantee of the notes and deposit notes is subject to these termination and amendment provisions.

The guarantee agreement further provides that we will not be liable to any Party for any amount in excess of the amount which GS Bank actually owes to such Party, and that we may assert any defense to payment available to GS Bank, other than those arising in a bankruptcy or insolvency proceeding. Upon payment of all due and unpaid Obligations owing to any Party, we will be subrogated to the rights of such Party against GS Bank with respect to such Obligations, and such Party will be obligated to take at our expense such steps as we may reasonably request to implement such subrogation.

We may not assign our rights or delegate our obligations under the guarantee agreement with respect to any Party, in whole or in part, without the prior written consent of such Party. However, this prohibition on assignment or delegation is subject to an important exception. We may assign and delegate all of our rights and obligations under the guarantee agreement to any partnership, corporation, trust or other organization in any form that succeeds to all or substantially all of our assets and business and assumes such obligations by contract, operation of law or otherwise. Upon any such delegation and assumption of obligations, we will be relieved of and fully discharged from all obligations under the guarantee agreement, whether such obligations arose before or after such delegation and assumption.

For the purposes of the guarantee agreement, references above to "GS Bank" include any banking subsidiary of ours (whether now or hereafter formed) that succeeds to the business of GS Bank. Under the guarantee agreement, therefore, "Obligations" include the Obligations of any such successor.

The guarantee agreement is governed by New York law.

The guarantee agreement has not been and will not be qualified as an indenture, and there is not and will not be any trustee, qualified under the Trust Indenture Act with respect to the guarantee agreement or our guarantee of the notes and deposit notes. Therefore, the beneficiaries of our guarantee of the notes and deposit notes will not have the protection of the Trust Indenture Act with respect to our guarantee.

Our guarantee of the notes and deposit notes are governed by and subject to the guarantee agreement, and any payments we may become obligated to make in respect of our guarantee will be made on the terms and as provided in the guarantee agreement. Please note that we or our agent may require any person claiming payment under our guarantee to provide evidence reasonably satisfactory to us or our agent that such person is a Party entitled to such payment under the guarantee agreement. We have filed the guarantee agreement with the SEC as exhibit 4.80 to the registration statement of which this prospectus forms a part, and we encourage you to read it carefully.

Because we are a holding company, our ability to perform our obligations under our guarantee will depend in part on our ability to participate in distributions of assets from our subsidiaries. We discuss these matters under "We Are a Holding Company" above.

The guarantee agreement supersedes and replaces a substantially identical general guarantee agreement dated October 21, 2008. The earlier general guarantee agreement does not apply with respect to the notes and deposit notes or other obligations of GS Bank incurred after December 1, 2008.

### ***Considerations Relating to the Guarantee of the Deposit Notes***

In the event of a liquidation or other resolution of GS Bank and payment on the deposit notes by the FDIC under FDIC insurance, the FDIC will be subrogated to all rights of holders of the deposit notes against GS Bank under the deposit notes, including their rights against The Goldman Sachs Group, Inc. under the guarantee agreement, to the extent of such payment.

The deposit notes will be deposit liabilities of GS Bank, unconditionally and irrevocably guaranteed by The Goldman Sachs Group, Inc. pursuant to our guarantee. Except to the extent FDIC insurance is available from the FDIC, no entity other than GS Bank (or its receiver or conservator, if applicable, to the extent of any available remaining assets of GS Bank) or The Goldman Sachs Group, Inc. will have any obligation, contingent or otherwise, to make any payments in respect of the deposit notes. Accordingly, GS Bank and The Goldman Sachs Group, Inc. will be dependent on their respective assets and earnings to generate the funds necessary to meet their respective obligations with respect to the deposit notes. If GS Bank's and The Goldman Sachs Group, Inc.'s assets and earnings are not adequate, GS Bank and The Goldman Sachs Group, Inc. may be unable to make payments in respect of the deposit notes and you could lose that part of your deposit, if any, that is not covered by FDIC insurance.

The deposit notes will not be guaranteed by the FDIC under the FDIC's Temporary Liquidity Guarantee Program (the "TLG Program").

### ***Considerations Relating to the Guarantee of the Notes***

The notes will be unconditionally and irrevocably guaranteed by The Goldman Sachs Group, Inc. pursuant to our guarantee. However, the notes will be general unsecured obligations, not deposit liabilities, of GS Bank and will not be insured by the FDIC. In the event of a liquidation or other resolution of GS Bank, the notes, as general obligations of GS Bank, will generally be subordinated in right of payment to the claims of deposit holders. No entity other than GS Bank or The Goldman Sachs Group, Inc. will have any obligation, contingent or otherwise, to make any payments in respect of the notes. Accordingly, GS Bank and The Goldman Sachs Group, Inc. will be dependent on their respective assets and earnings to generate the funds necessary to meet their respective obligations with respect to the notes. If GS Bank's and The Goldman Sachs Group Inc.'s assets and earnings are not adequate, GS Bank and The Goldman Sachs Group, Inc. may be unable to make payments in respect of the notes and you could lose your entire investment in your note.

The notes will not be guaranteed by the FDIC under the TLG Program.

## **SCOPE OF THIS PROSPECTUS**

As indicated above, the guarantee agreement applies to a wide range of payment obligations of GS Bank. This prospectus, however, relates only to our guarantee of the notes and deposit notes and not to any other obligations of GS Bank, unless we amend or supplement this prospectus to provide otherwise.

We reserve the right to amend or terminate the guarantee agreement with respect to the notes or deposit notes, in whole or in any part (and with respect to some or all holders of the notes or deposit notes), at any time in the future as permitted in the guarantee agreement. In the event that we terminate the guarantee agreement with respect to any notes or deposit notes (or holders), this prospectus will not apply with respect to any offers or sales of those obligations made after the termination becomes effective (other than offers and sales to any holders as to whom the termination is not effective).

## PLAN OF DISTRIBUTION

### Initial Offering and Sale of Notes and Deposit Notes with Guarantee

We have been advised by GS Bank that the notes or deposit notes, in each case together with our guarantee, may be initially offered from time to time as follows:

- through agents;
- to dealers or initial purchasers for resale;
- directly to purchasers; or
- through a combination of any of these methods of sale.

The notes or deposit notes, in each case together with our guarantee, which GS Bank distributes 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.

The notes or deposit notes, in each case together with our guarantee, may be offered by Goldman, Sachs & Co., any of our other affiliates or other firms, pursuant to distribution agreements signed with GS Bank and us from time to time. We refer to these firms as “agents”. The notes and deposit notes will be offered for sale primarily in the United States but may also be offered outside the United States.

The agents may offer the notes or deposit notes, in each case together with our guarantee, as agents for GS Bank or may purchase them for resale as principal, either on a firm-commitment or best-efforts basis, and will be compensated by GS Bank in the form of placement fees, commissions, purchase price discounts or similar arrangements. The agents may offer the notes or deposit notes either directly or through other institutions acting as selling agents, and may reallow or otherwise pay all or some of their compensation to their selling agents, if any.

We have been advised by GS Bank that it may also solicit offers to purchase the notes or deposit notes directly from the public from time to time.

We do not expect to pay any fees or other compensation to any agent in connection with the offering of notes or deposit notes, nor do we intend to charge any fees to or receive any other compensation from GS Bank or any other person in respect of our guarantee.

Neither the notes nor the deposit notes are required to be or have been registered under the Securities Act. However, because our guarantee has been registered under the Securities Act, the agents may be deemed to be “underwriters”, and some of the compensation they receive in connection with the distribution of notes and deposit notes may be deemed to be “underwriters’ compensation” (as these terms are defined in the Securities Act), with respect to our guarantee.

In connection with an offering, the agents may purchase and sell notes or deposit notes, together with our guarantee, 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 agents of a greater number of notes or deposit notes 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 notes or deposit notes while an offering is in progress.

The agents also may impose a penalty bid. This occurs when a particular agent repays to the agents a portion of the fees, commissions or discounts received by it because the agents have repurchased notes or deposit notes, together with our guarantee, sold by or for the account of that agent in stabilizing or short-covering transactions.

These activities by the agents may stabilize, maintain or otherwise affect the market price of the notes or deposit notes. As a result, the price of the notes or deposit notes 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 agents at any time.

We have been advised by GS Bank that it may authorize the agents and their selling agents to solicit from third parties offers to purchase the notes or deposit notes providing for payment and issuance on future dates.

The agents, as well as their affiliates, may be customers of or lenders to, and may engage in transactions with and perform services (including investment banking, financial advisory and banking services) for, The Goldman Sachs Group, Inc. and its subsidiaries in the ordinary course of business. In connection with some of these transactions and services, these parties have in the past received, and may in the future receive, customary fees from us or our affiliates. As noted above, GS Bank expects to offer the notes and deposit notes, together with our guarantee, to or through our affiliates, as agents or selling agents. Among our affiliates, Goldman, Sachs & Co. may offer the notes and deposit notes for sale in the United States and Goldman Sachs International, Goldman Sachs (Asia) L.L.C. and Goldman Sachs (Singapore) Pte. may offer them for sale outside the United States. Our affiliates may also offer the notes and deposit notes 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. (NASD) imposes certain requirements when a member of the Financial Industry Regulatory Authority, Inc. (FINRA), such as Goldman, Sachs & Co., distributes an affiliated company's securities. Goldman, Sachs & Co. has advised us that each particular offering of the notes and deposit notes in which it participates will comply with the applicable requirements of Rule 2720.

Neither Goldman, Sachs & Co. nor any other FINRA member is permitted to sell the notes or deposit notes with our guarantee 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.

We and GS Bank have agreed (or will agree) to indemnify the agents that have signed (or will sign) distribution agreements against certain liabilities, which may include liabilities arising under the Securities Act of 1933.

We estimate that our and GS Bank's share of the total expenses of the offering of the notes and deposit notes together with our guarantee, excluding fees and other compensation of agents, will be approximately \$495,000.

### **Market-Making Resales**

This prospectus may be used by Goldman, Sachs & Co. and any of our other affiliates in connection with offers and sales of notes and deposit notes, together with our guarantee, in market-making transactions. In a market-making transaction, Goldman, Sachs & Co. or any such other affiliate may resell a note or deposit note that it acquires from other holders, after the original offering and sale of the note or deposit note. 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. or such other affiliate may act as principal or agent, including as agent for the counterparty in a transaction in which the affiliate acts as principal, or as agent for both counterparties in a transaction in which the affiliate does not act as principal. Goldman, Sachs & Co. or such other affiliate may receive compensation in the form of fees, commissions and discounts, including from both counterparties in some cases. In addition to Goldman, Sachs & Co., our other affiliates who engage in transactions of this kind and may use this prospectus for this purpose include Goldman Sachs International, Goldman Sachs (Asia) L.L.C. and Goldman Sachs (Singapore) Pte.

In the event that GS Bank, Goldman, Sachs & Co. or any other affiliate of GS Bank purchases deposit notes with our guarantee in the secondary market, these purchases may be subject to certain regulatory conditions, including, if GS Bank, Goldman, Sachs & Co. or any other affiliate of GS Bank purchases deposit notes from a holder within six days after those deposit notes are initially issued, downward adjustments to the purchase price to be paid to the holder to account for early withdrawal penalties imposed by GS Bank pursuant to Regulation D of the Federal Reserve Board. Thus, if you sell a deposit note to GS Bank or any of its affiliates shortly after you purchase and pay for it, you may receive a reduced price for your deposit note.

We do not expect to pay or receive any fees or other compensation in respect of our guarantee in market-making transactions. We do not expect Goldman, Sachs & Co. or any of our other affiliates that engages in these transactions to pay any proceeds from its market-making resales to us.

When you purchase any notes or deposit notes together with our guarantee, you may assume that you are purchasing them in a market-making transaction unless you are informed in your confirmation of sale that you are purchasing them in their original offering and sale.

### **Market for the Notes and Deposit Notes**

There is no established trading market for the notes or deposit notes, in each case together with our guarantee, and there is no assurance that any will develop. Neither we nor GS Bank intends to list the notes, deposit notes or our guarantee on any securities exchange or trading facility. We have been advised by Goldman, Sachs & Co. that it may make a market in the notes or deposit notes and it is possible that any of our other affiliates involved in the distribution of the notes or deposit notes may also do so. Neither Goldman, Sachs & Co. nor any of our other affiliates, however, is obligated to do so and any one 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 notes or deposit notes.

## 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 notes or deposit notes, in each case with our guarantee.*

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, Keogh plans 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 applies to the transaction. The assets of a Plan may include assets held in the general account of an insurance company that are deemed “plan assets” under ERISA or assets of certain investment vehicles in which the Plan invests. Each of The Goldman Sachs Group, Inc. and certain of its affiliates may be considered a “party in interest” or a “disqualified person” with respect to many Plans, and, accordingly, prohibited transactions may arise if the notes or deposit notes, in each case with our guarantee, are acquired by or on behalf of a Plan unless the notes or deposit notes 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 Section 408(b)(17) of ERISA and Section 4975(d)(20) of the Code where the Plan receives no less and pays no more than “adequate consideration” (within the meaning of Section 408(b)(17) of ERISA and Section 4975(f)(10) of the Code). A Plan should also consider whether its purchase, holdings and disposition of a note or deposit note is eligible to be covered under prohibited transaction exemption 81-8 (involving investments in certificates of deposit). 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 notes or deposit notes, 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 notes or deposit notes, (b) none of the purchase, holding or disposition of the notes or deposit notes, in each case with our guarantee, or the exercise of any rights related to the notes, the deposit notes or our guarantee will result in a non-exempt prohibited transaction under ERISA or the 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 or, with respect to a governmental plan, under any similar applicable law or regulation) with respect to the purchaser or holder in connection with such person’s acquisition, disposition or holding of the notes or deposit notes, in each case with our guarantee, 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 notes, the deposit notes or our guarantee, 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 notes or deposit notes, in each case with our guarantee, and any transactions contemplated with respect to the notes or deposit notes, in each case with our guarantee.

*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) and propose to invest in the notes or deposit notes, in each case with our guarantee, described in this prospectus, you should consult your legal counsel.*

## **VALIDITY OF OUR GUARANTEE**

The validity of our guarantee has been passed upon for The Goldman Sachs Group, Inc. by Sullivan & Cromwell LLP, New York, New York. The opinion of Sullivan & Cromwell LLP was based on assumptions about the absence of future changes in law or the authorization of our guarantee and about other matters that may affect the validity of our guarantee but which could not be ascertained on the date of that opinion.

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 stock, preferred stock and debt securities. Sullivan & Cromwell LLP also performed services for The Goldman Sachs Group, Inc. and GS Bank in connection with the issuance of our guarantee and the notes and deposit notes.

## **EXPERTS**

The financial statements of Goldman Sachs incorporated in this prospectus by reference to the Annual Report on Form 10-K for the fiscal year ended November 28, 2008 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 28, 2008 incorporated by reference in this 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.

## **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 28, 2008, which is incorporated in this prospectus by reference (and in any of our annual or quarterly reports for a subsequent fiscal period that are so incorporated). See “Available Information” above for information about how to obtain a copy of this annual report.

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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 it describes, 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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## The Goldman Sachs Group, Inc.

Guarantee  
of Notes and Deposit Notes of  
Goldman Sachs Bank USA

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**Goldman, Sachs & Co.**

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