

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

FORM 8-K

CURRENT REPORT  
PURSUANT TO SECTION 13 OR 15(D) OF THE SECURITIES EXCHANGE ACT OF 1934

Date of Report (Date of earliest event reported):  
September 16, 2005

**THE GOLDMAN SACHS GROUP, INC.**

(Exact name of registrant as specified in its charter)

**Delaware**

**No. 001-14965**

**No. 13-4019460**

(State or other jurisdiction  
of incorporation)

(Commission  
File Number)

(IRS Employer  
Identification No.)

**85 Broad Street  
New York, New York**

**10004**

(Address of principal executive offices)

(Zip Code)

Registrant's telephone number, including area code: **(212) 902-1000**

N/A

(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

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## **Item 2.02 Results of Operations and Financial Condition.**

On September 20, 2005, The Goldman Sachs Group, Inc. (the Registrant) reported its earnings for its fiscal third quarter ended August 26, 2005. A copy of the Registrant's press release containing this information is being furnished as Exhibit 99.1 to this Current Report on Form 8-K and is incorporated herein by reference.

The information furnished pursuant to this Item 2.02, including Exhibit 99.1, shall not be deemed "filed" for purposes of Section 18 of the Securities Exchange Act of 1934 (the Exchange Act) or otherwise subject to the liabilities under that Section and shall not be deemed to be incorporated by reference into any filing of the Registrant under the Securities Act of 1933 or the Exchange Act.

## **Item 5.03 Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year.**

On September 16, 2005, the Registrant's Board of Directors (the Board) approved an amendment to Section 5.1 of the Registrant's Amended and Restated By-Laws (the By-Laws) to facilitate the issuance of uncertificated shares, as permitted by a recent change in Delaware law. A copy of the By-Laws, as amended, is filed as Exhibit 3.1 to this Current Report on Form 8-K and is incorporated herein by reference.

## **Item 8.01 Other Events.**

On September 20, 2005, the Registrant reported net earnings of \$1.62 billion for its fiscal third quarter ended August 26, 2005. Diluted earnings per common share were \$3.25 compared with \$1.74 for the third quarter of 2004 and \$1.71 for the second quarter of 2005. Annualized return on average tangible common shareholders' equity <sup>(1)</sup> was 32.0% for the third quarter of 2005 and 26.2% for the first nine months of 2005. Annualized return on average common shareholders' equity was 25.1% for the third quarter of 2005 and 20.7% for the first nine months of 2005.

### **Net Revenues**

#### **Investment Banking**

Net revenues in Investment Banking were \$1.02 billion, 14% higher than the third quarter of 2004 and 25% higher than the second quarter of 2005. Net revenues in Financial Advisory increased significantly to \$559 million, which was 24% higher than the third quarter of 2004, primarily reflecting an increase in industry-wide completed mergers and acquisitions. Net revenues in the firm's Underwriting business were \$456 million, 4% higher than the third quarter of 2004, reflecting higher net revenues in debt underwriting, primarily due to an increase in investment-grade issuances, partially offset by lower net revenues in equity underwriting. The firm's investment banking backlog decreased during the quarter, but was higher than at the end of 2004.

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## **Trading and Principal Investments**

Net revenues in Trading and Principal Investments were \$5.06 billion, 88% higher than the third quarter of 2004 and 80% higher than the second quarter of 2005.

Net revenues in Fixed Income, Currency and Commodities (FICC) were \$2.63 billion, 41% higher than the third quarter of 2004. The business operated in a favorable environment as credit markets strengthened and customer-driven activity was strong. The increase in net revenues was driven by significantly higher net revenues in credit products as well as currencies. Net revenues were also higher in mortgages, while results in commodities and interest rate products were strong, but lower than the third quarter of 2004.

Net revenues in Equities were \$1.59 billion, 75% higher than the third quarter of 2004, as the business operated in a favorable environment, characterized by strong customer-driven activity and generally higher equity prices. Net revenues were significantly higher in the firm's principal strategies and customer franchise businesses. Results in principal strategies reflected strong performance across all regions and most sectors, while net revenues in the firm's customer franchise businesses reflected improved results in shares, derivatives and convertibles.

Principal Investments recorded net revenues of \$843 million, reflecting a \$498 million gain (as compared with a loss of \$245 million in the third quarter of 2004) related to the firm's investment in the convertible preferred stock of Sumitomo Mitsui Financial Group, Inc. (SMFG) and \$345 million in gains and overrides from other corporate and, to a lesser extent, real estate principal investments.

## **Asset Management and Securities Services**

Net revenues in Asset Management and Securities Services were \$1.21 billion, 28% higher than the third quarter of 2004 and 3% higher than the second quarter of 2005.

Asset Management net revenues were \$731 million, 23% higher than the third quarter of 2004, reflecting higher management fees, driven by growth in assets under management, as well as higher incentive fees. During the quarter, assets under management increased 6%, reflecting net asset inflows of \$18 billion in equity, alternative investment and fixed income assets as well as market appreciation of \$12 billion, primarily in equity assets.

Securities Services net revenues were \$477 million, 38% higher than the third quarter of 2004, as the firm's prime brokerage business continued to generate strong results, primarily reflecting significantly higher global customer balances in securities lending and margin lending.

## **Expenses**

Operating expenses were \$4.88 billion, 51% higher than the third quarter of 2004 and 37% higher than the second quarter of 2005.

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### **Compensation Expenses**

Compensation and benefits expenses were \$3.64 billion, 61% higher than the third quarter of 2004, commensurate with higher net revenues. The ratio of compensation and benefits to net revenues was 50.0% for the first nine months of 2005, consistent with the first nine months of 2004.<sup>(2)</sup> Employment levels increased 5% during the quarter and 6% compared with the end of 2004.

### **Non-Compensation Expenses**

Non-compensation expenses were \$1.24 billion, 28% higher than the third quarter of 2004. Other expenses increased primarily due to higher expenses from consolidated entities held for investment purposes and higher levels of business activity. Brokerage, clearing and exchange fees increased due to higher transaction volumes, particularly in FICC. Occupancy expenses were higher primarily due to \$20 million of costs associated with the relocation of office space as well as increased expenses related to consolidated entities held for investment purposes. Professional fees increased primarily due to higher legal fees. Market development costs increased primarily due to higher levels of business activity. Excluding non-compensation expenses related to consolidated entities held for investment purposes<sup>(3)</sup>, non-compensation expenses were 18% higher than the third quarter of 2004 and 3% higher than the second quarter of 2005.

### **Provision For Taxes**

The effective income tax rate was 31.1% for the first nine months of 2005, up from 29.9% for the first six months of 2005. Excluding the impact of audit settlements in 2005, the effective income tax rate for the first nine months of 2005 would have been 32.9%, essentially unchanged from the first six months of 2005 and up from 31.8% for fiscal year 2004. The increase in the effective tax rate for the first nine months of 2005 compared with fiscal year 2004 was primarily due to lower tax credits and increased state and local taxes in 2005.

### **Capital**

As of August 26, 2005, total capital was \$128.21 billion, consisting of \$26.61 billion in total shareholders' equity (common equity of \$25.86 billion and preferred equity of \$750 million) and \$101.60 billion in long-term debt.<sup>(4)</sup> Book value per common share was \$55.39 based on common shares outstanding, including restricted stock units granted to employees with no future service requirements, of 466.8 million at period end. Tangible book value per common share was \$43.67.<sup>(1)</sup>

The firm repurchased 16.3 million shares of its common stock during the quarter at an average price of \$106.76 per share. On September 16, 2005, the Board authorized the repurchase of an additional 60.0 million shares of common stock pursuant to the firm's existing share repurchase program. The

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remaining share authorization under the firm's existing common stock repurchase program, including the newly-authorized amount, is 63.2 million shares.

### **Dividends**

The Board declared a dividend of \$0.25 per common share to be paid on November 21, 2005 to common shareholders of record on October 24, 2005. The Board also declared a dividend of \$288.14 per share of Series A Preferred Stock (represented by depositary shares, each representing a 1/1000th interest in a share of Series A Preferred Stock) to be paid on November 10, 2005 to preferred shareholders of record on October 26, 2005.

### **Cautionary Note Regarding Forward-Looking Statements**

This Current Report on Form 8-K contains "forward-looking statements." These statements are not historical facts but instead represent only the firm's belief regarding future events, many of which, by their nature, are inherently uncertain and outside of the firm's control. It is possible that the firm's actual results and financial condition may differ, possibly materially, from the anticipated results and financial condition indicated in these forward-looking statements. For a discussion of some of the risks and important factors that could affect the firm's future results, see "Business – Certain Factors That May Affect Our Business" in Part I, Item 1 of the firm's Annual Report on Form 10-K for the fiscal year ended November 26, 2004.

Statements about the firm's investment banking transaction backlog also may constitute forward-looking statements. Such statements are subject to the risk that the terms of these transactions may be modified or that they may not be completed at all; therefore, the net revenues that the firm expects to earn from these transactions may differ, possibly materially, from those currently expected. Important factors that could result in a modification of the terms of a transaction or a transaction not being completed include, in the case of underwriting transactions, a decline in general economic conditions, volatility in the securities markets generally or an adverse development with respect to the issuer of the securities and, in the case of financial advisory transactions, a decline in the securities markets, an adverse development with respect to a party to the transaction or a failure to obtain a required regulatory approval. For a discussion of other important factors that could adversely affect the firm's investment banking transactions, see "Business – Certain Factors That May Affect Our Business" in Part I, Item 1 of the firm's Annual Report on Form 10-K for the fiscal year ended November 26, 2004.

**THE GOLDMAN SACHS GROUP, INC. AND SUBSIDIARIES**  
**SEGMENT NET REVENUES**  
(UNAUDITED)  
*\$ in millions*

	Three Months Ended			% Change From	
	Aug. 26, 2005	May 27, 2005	Aug. 27, 2004	May 27, 2005	Aug. 27, 2004
<b>Investment Banking</b>					
Financial Advisory	\$ 559	\$ 386	\$ 451	45%	24%
Equity underwriting	199	114	218	75	(9)
Debt underwriting	<u>257</u>	<u>315</u>	<u>221</u>	<u>(18)</u>	<u>16</u>
Total Underwriting	456	429	439	6	4
	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>
Total Investment Banking	<u>1,015</u>	<u>815</u>	<u>890</u>	<u>25</u>	<u>14</u>
<b>Trading and Principal Investments</b>					
FICC	2,626	1,519	1,868	73	41
Equities trading	872	372	302	134	189
Equities commissions	<u>721</u>	<u>733</u>	<u>608</u>	<u>(2)</u>	<u>19</u>
Total Equities	1,593	1,105	910	44	75
	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>
SMFG	498	73	(245)	N.M.	N.M.
Other corporate and real estate gains and losses	205	107	163	92	26
Overrides	<u>140</u>	<u>9</u>	<u>3</u>	<u>N.M.</u>	<u>N.M.</u>
Total Principal Investments	843	189	(79)	N.M.	N.M.
	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>
Total Trading and Principal Investments	<u>5,062</u>	<u>2,813</u>	<u>2,699</u>	<u>80</u>	<u>88</u>
<b>Asset Management and Securities Services</b>					
Asset Management	731	689	596	6	23
Securities Services	<u>477</u>	<u>489</u>	<u>345</u>	<u>(2)</u>	<u>38</u>
Total Asset Management and Securities Services	1,208	1,178	941	3	28
	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>
Total net revenues	<u>\$ 7,285</u>	<u>\$ 4,806</u>	<u>\$ 4,530</u>	<u>52</u>	<u>61</u>

	Nine Months Ended		% Change From
	Aug. 26, 2005	Aug. 27, 2004	Aug. 27, 2004
<b>Investment Banking</b>			
Financial Advisory	\$ 1,359	\$ 1,323	3%

Equity underwriting	499	650	(23)
Debt underwriting	<u>865</u>	<u>633</u>	<u>37</u>
Total Underwriting	<u>1,364</u>	<u>1,283</u>	<u>6</u>
Total Investment Banking	<u>2,723</u>	<u>2,606</u>	<u>4</u>
<b>Trading and Principal Investments</b>			
FICC	6,634	5,863	13
Equities trading	2,073	1,599	30
Equities commissions	<u>2,175</u>	<u>2,049</u>	<u>6</u>
Total Equities	<u>4,248</u>	<u>3,648</u>	<u>16</u>
SMFG	752	517	45
Other corporate and real estate gains and losses	460	330	39
Overrides	<u>164</u>	<u>90</u>	<u>82</u>
Total Principal Investments	<u>1,376</u>	<u>937</u>	<u>47</u>
Total Trading and Principal Investments	<u>12,258</u>	<u>10,448</u>	<u>17</u>
<b>Asset Management and Securities Services</b>			
Asset Management	2,169	1,958	11
Securities Services	<u>1,346</u>	<u>957</u>	<u>41</u>
Total Asset Management and Securities Services	<u>3,515</u>	<u>2,915</u>	<u>21</u>
Total net revenues	<u>\$ 18,496</u>	<u>\$ 15,969</u>	<u>16</u>



**THE GOLDMAN SACHS GROUP, INC. AND SUBSIDIARIES**  
**CONSOLIDATED STATEMENTS OF EARNINGS**  
**(UNAUDITED)**

*In millions, except per share amounts and employees*

	Three Months Ended			% Change From	
	Aug. 26, 2005	May 27, 2005	Aug. 27, 2004	May 27, 2005	Aug. 27, 2004
<b>Revenues</b>					
Investment banking	\$ 998	\$ 796	\$ 854	25%	17%
Trading and principal investments	4,842	2,562	2,424	89	100
Asset management and securities services	772	724	620	7	25
Interest income	5,721	4,867	2,905	18	97
<b>Total revenues</b>	<b>12,333</b>	8,949	6,803	38	81
Interest expense	4,940	4,022	2,156	23	129
Cost of power generation <sup>(5)</sup>	108	121	117	(11)	(8)
<b>Revenues, net of interest expense and cost of power generation</b>	<b>7,285</b>	4,806	4,530	52	61
<b>Operating expenses</b>					
Compensation and benefits <sup>(2)</sup>	3,642	2,403	2,269	52	61
Brokerage, clearing and exchange fees	271	274	228	(1)	19
Market development	92	94	76	(2)	21
Communications and technology	124	123	111	1	12
Depreciation and amortization	125	128	117	(2)	7
Amortization of identifiable intangible assets	31	31	31	—	—
Occupancy	200	186	157	8	27
Professional fees	117	109	91	7	29
Other expenses	278	214	157	30	77
<b>Total non-compensation expenses</b>	<b>1,238</b>	1,159	968	7	28
<b>Total operating expenses</b>	<b>4,880</b>	3,562	3,237	37	51
Pre-tax earnings	2,405	1,244	1,293	93	86
Provision for taxes	788	379	414	108	90
<b>Net earnings</b>	<b>1,617</b>	865	879	87	84
Preferred stock dividend	9	—	—	N.M.	N.M.
<b>Net earnings applicable to common shareholders</b>	<b>\$ 1,608</b>	\$ 865	\$ 879	86	83
<b>Earnings per common share</b>					
Basic	\$ 3.40	\$ 1.78	\$ 1.80	91	89
Diluted	3.25	1.71	1.74	90	87
<b>Average common shares outstanding</b>					
Basic	473.3	485.4	489.2	(2)	(3)

Diluted	<b>494.2</b>	506.2	505.0	(2)	(2)
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**Selected Data**

Employees at period end <sup>(6)</sup> <sup>(7)</sup>	<b>22,032</b>	20,888	20,347	5	8
Ratio of compensation and benefits to net revenues	<b>50.0%</b>	50.0%	50.0% <sup>(2)</sup>		

**THE GOLDMAN SACHS GROUP, INC. AND SUBSIDIARIES**  
**CONSOLIDATED STATEMENTS OF EARNINGS**  
**(UNAUDITED)**

*In millions, except per share amounts*

	<b>Nine Months Ended</b>		<b>% Change From</b>
	<b>Aug. 26, 2005</b>	<b>Aug. 27, 2004</b>	<b>Aug. 27, 2004</b>
<b>Revenues</b>			
Investment banking	\$ 2,667	\$ 2,536	5%
Trading and principal investments	11,545	9,652	20
Asset management and securities services	2,270	2,036	11
Interest income	14,764	8,160	81
<b>Total revenues</b>	<b>31,246</b>	22,384	40
Interest expense	12,411	6,067	105
Cost of power generation <sup>(5)</sup>	339	348	(3)
<b>Revenues, net of interest expense and cost of power generation</b>	<b>18,496</b>	15,969	16
<b>Operating expenses</b>			
Compensation and benefits <sup>(2)</sup>	9,248	8,035	15
Brokerage, clearing and exchange fees	797	713	12
Market development	268	214	25
Communications and technology	365	343	6
Depreciation and amortization	371	373	(1)
Amortization of identifiable intangible assets	93	94	(1)
Occupancy	534	483	11
Professional fees	322	237	36
Other expenses	704	515	37
<b>Total non-compensation expenses</b>	<b>3,454</b>	2,972	16
<b>Total operating expenses</b>	<b>12,702</b>	11,007	15
Pre-tax earnings	5,794	4,962	17
Provision for taxes	1,800	1,603	12
<b>Net earnings</b>	<b>3,994</b>	3,359	19
Preferred stock dividend	9	—	N.M.
<b>Net earnings applicable to common shareholders</b>	<b>\$ 3,985</b>	\$ 3,359	19
<b>Earnings per common share</b>			
Basic	\$ 8.23	\$ 6.86	20
Diluted	7.89	6.56	20
<b>Average common shares outstanding</b>			
Basic	484.3	489.7	(1)
Diluted	505.2	511.8	(1)

**Selected Data**

Ratio of compensation and benefits to net revenues

**50.0%**50.0% <sup>(2)</sup>

**NON-COMPENSATION EXPENSES**  
(UNAUDITED)  
*\$ in millions*

	Three Months Ended			% Change From	
	Aug. 26, 2005	May 27, 2005	Aug. 27, 2004	May 27, 2005	Aug. 27, 2004
Non-compensation expenses of consolidated investments <sup>(3)</sup>	\$ 100	\$ 49	\$ 6	104%	N.M.%
Non-compensation expenses excluding consolidated investments					
Brokerage, clearing and exchange fees	271	274	228	(1)	19
Market development	86	90	76	(4)	13
Communications and technology	122	123	111	(1)	10
Depreciation and amortization	114	124	117	(8)	(3)
Amortization of identifiable intangible assets	31	31	31	—	—
Occupancy	186	174	157	7	18
Professional fees	114	108	91	6	25
Other expenses	214	186	151	15	42
Subtotal	1,138	1,110	962	3	18
Total non-compensation expenses, as reported	<u>\$ 1,238</u>	<u>\$ 1,159</u>	<u>\$ 968</u>	<u>7</u>	<u>28</u>

	Nine Months Ended		% Change From
	Aug. 26, 2005	Aug. 27, 2004	Aug. 27, 2004
Non-compensation expenses of consolidated investments <sup>(3)</sup>	\$ 164	\$ 14	N.M.%
Non-compensation expenses excluding consolidated investments			
Brokerage, clearing and exchange fees	797	713	12
Market development	258	214	21
Communications and technology	363	343	6
Depreciation and amortization	354	373	(5)
Amortization of identifiable intangible assets	93	94	(1)
Occupancy	508	483	5
Professional fees	318	237	34
Other expenses	599	501	20
Subtotal	3,290	2,958	11
Total non-compensation expenses, as reported	<u>\$ 3,454</u>	<u>\$ 2,972</u>	<u>16</u>

**THE GOLDMAN SACHS GROUP, INC. AND SUBSIDIARIES**  
**SELECTED FINANCIAL DATA**  
**(UNAUDITED)**

**Average Daily VaR <sup>(8)</sup>**  
*\$ in millions*

	<b>Three Months Ended</b>		
	<b>Aug. 26, 2005</b>	<b>May 27, 2005</b>	<b>Aug. 27, 2004</b>
<b>Risk Categories</b>			
Interest rates	\$ 38	\$ 33	\$ 39
Equity prices	40	26	31
Currency rates	19	19	20
Commodity prices	25	24	23
Diversification effect <sup>(9)</sup>	<u>(46)</u>	<u>(42)</u>	<u>(43)</u>
<b>Total</b>	<b><u>\$ 76</u></b>	<b><u>\$ 60</u></b>	<b><u>\$ 70</u></b>

**Assets Under Management <sup>(10)</sup>**  
*\$ in billions*

	<b>As of</b>			<b>% Change From</b>	
	<b>Aug. 31, 2005</b>	<b>May 31, 2005</b>	<b>Aug. 31, 2004</b>	<b>May 31, 2005</b>	<b>Aug. 31, 2004</b>
Money markets	\$ 98	\$ 98	\$ 95	—%	3%
Fixed income and currency	161	153	130	5	24
Equity	150	135	113	11	33
Alternative investments	<u>111</u>	<u>104</u>	<u>88</u>	<u>7</u>	<u>26</u>
<b>Total</b>	<b><u>\$ 520</u></b>	<b><u>\$ 490</u></b>	<b><u>\$ 426</u></b>	<b><u>6</u></b>	<b><u>22</u></b>

	<b>Three Months Ended</b>		
	<b>Aug. 31, 2005</b>	<b>May 31, 2005</b>	<b>Aug. 31, 2004</b>
Balance, beginning of period	\$ 490	\$ 482	\$ 415
Net asset inflows / (outflows)			
Money markets	—	(1)	3
Fixed income and currency	6	6	3
Equity	6	2	—
Alternative investments	<u>6</u>	<u>3</u>	<u>4</u>
<b>Total net asset inflows / (outflows)</b>	<b>18</b>	<b>10</b>	<b>10</b>
Net market appreciation / (depreciation)	<u>12</u>	<u>(2)</u>	<u>1</u>
<b>Balance, end of period</b>	<b><u>\$ 520</u></b>	<b><u>\$ 490</u></b>	<b><u>\$ 426</u></b>

**Principal Investments**  
*\$ in millions*

	<b>As of August 26, 2005</b>		
	<b><u>Corporate</u></b>	<b><u>Real Estate</u></b>	<b><u>Total</u></b>
Private	\$ 1,506	\$ 772	\$ 2,278
Public	<u>322</u>	<u>31</u>	<u>353</u>
Subtotal	1,828	803	2,631
SMFG convertible preferred stock <sup>(1)</sup>	<u>3,256</u>	<u>—</u>	<u>3,256</u>
Total	<b><u>\$ 5,084</u></b>	<b><u>\$ 803</u></b>	<b><u>\$ 5,887</u></b>

## Footnotes

- (1) Tangible common shareholders' equity equals total shareholders' equity less preferred shareholders' equity less goodwill and identifiable intangible assets. Management believes that annualized return on average tangible common shareholders' equity is a meaningful measure of performance because it excludes the portion of the firm's common shareholders' equity attributable to goodwill and identifiable intangible assets. As a result, this calculation measures corporate performance in a manner that treats underlying businesses consistently, whether they were acquired or developed internally. Annualized return on average tangible common shareholders' equity is computed by dividing annualized net earnings applicable to common shareholders by average monthly tangible common shareholders' equity. Tangible book value per common share is computed by dividing tangible common shareholders' equity by the number of common shares outstanding, including restricted stock units granted to employees with no future service requirements. The following table sets forth a reconciliation of total shareholders' equity to tangible common shareholders' equity:

	Average for the		As of
	Nine Months Ended August 26, 2005	Three Months Ended August 26, 2005	August 26, 2005
	(unaudited, \$ in millions)		
Total shareholders' equity	\$ 26,100	\$ 26,405	\$ 26,607
Deduct: Preferred shareholders' equity	(375)	(750)	(750)
Common shareholders' equity	25,725	25,655	25,857
Deduct: Goodwill and identifiable intangible assets	(5,483)	(5,552)	(5,472)
Tangible common shareholders' equity	<u>\$ 20,242</u>	<u>\$ 20,103</u>	<u>\$ 20,385</u>

- (2) Compensation and benefits includes the amortization of employee initial public offering and acquisition awards of \$5 million for each of the three month periods ended August 26, 2005, May 27, 2005 and August 27, 2004, and \$16 million and \$51 million for the nine months ended August 2005 and August 2004, respectively. For the three months and nine months ended August 27, 2004, the ratio of compensation and benefits to net revenues, including the amortization of employee initial public offering and acquisition awards, was 50.1% and 50.3%, respectively.
- (3) Consolidated entities held for investment purposes includes entities that are held strictly for capital appreciation, have a defined exit strategy and are engaged in activities which are not closely related to the firm's principal businesses. For example, these investments include consolidated entities that hold real estate assets such as golf courses and hotels in Asia, but exclude investments in entities which primarily hold financial assets. Management believes that it is meaningful to review non-compensation expenses excluding expenses related to these consolidated entities in order to evaluate trends in non-compensation expenses for the firm's principal business activities.
- (4) Long-term debt includes nonrecourse debt of \$13.97 billion, consisting of \$5.11 billion issued by William Street Funding Corporation (a wholly owned subsidiary of The Goldman Sachs Group, Inc. formed to raise funding to support loan commitments made by another wholly owned William Street entity to investment-grade clients) and \$8.86 billion issued by consolidated variable interest entities and other consolidated entities. Nonrecourse debt is debt that The Goldman Sachs Group, Inc. is not directly or indirectly obligated to repay through a guarantee, general partnership interest or contractual arrangement.
- (5) Cost of power generation includes all of the direct costs of the firm's consolidated power plant operations (e.g., fuel, operations and maintenance) as well as the depreciation and amortization associated with the plants and related contractual assets. Power generation revenues are included in "Trading and principal investments."
- (6) Excludes 1,377, 1,130 and 1,152 employees as of August 2005, May 2005 and August 2004, respectively, of Goldman Sachs' consolidated property management and loan servicing subsidiaries. Compensation and benefits includes \$45 million, \$41 million and \$35 million for the three months ended August 26, 2005, May 27, 2005 and August 27, 2004, respectively, attributable to these subsidiaries, the majority of which is reimbursed to Goldman Sachs by the investment funds for which these companies manage properties and perform loan servicing. Such reimbursements are recorded in net revenues.
- (7) Excludes 7,094, 6,626 and 298 employees as of August 2005, May 2005 and August 2004, respectively, of consolidated entities that are held for investment purposes only. Compensation and benefits includes \$50 million, \$17 million and \$2 million for the three months ended August 26, 2005, May 27, 2005 and August 27, 2004, respectively, attributable to these consolidated entities.



- (8) VaR is the potential loss in value of Goldman Sachs' trading positions due to adverse market movements over a one-day time horizon with a 95% confidence level. The modeling of the risk characteristics of the firm's trading positions involves a number of assumptions and approximations. While management believes that these assumptions and approximations are reasonable, there is no uniform industry methodology for estimating VaR, and different assumptions and/or approximations could produce materially different VaR estimates. For a further discussion of the calculation of VaR, see Part II, Item 7A "Quantitative and Qualitative Disclosures about Market Risk" in the firm's Annual Report on Form 10-K for the fiscal year ended November 26, 2004.
- (9) Equals the difference between total VaR and the sum of the VaRs for the four risk categories. This effect arises because the four market risk categories are not perfectly correlated.
- (10) Substantially all assets under management are valued as of calendar month end.
- (11) Excludes an economic hedge on the unrestricted shares of common stock underlying the investment. As of August 26, 2005, the fair value of this hedge was \$1.08 billion. Includes the impact of foreign exchange revaluation on the investment, for which the firm also maintains an economic hedge.

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**Item 9.01 Financial Statements and Exhibits.**

**(c) Exhibits.**

The following exhibit is filed as part of this Current Report on Form 8-K:

- 3.1 Amended and Restated By-Laws of the Registrant, dated September 16, 2005.

The following exhibit is furnished as part of this Current Report on Form 8-K:

- 99.1 Press release of the Registrant, dated September 20, 2005, containing financial information for its fiscal third quarter ended August 26, 2005.

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SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

THE GOLDMAN SACHS GROUP, INC.  
(Registrant)

Date: September 20, 2005

By: /s/ David A. Viniar

Name: David A. Viniar  
Title: Chief Financial Officer

**AMENDED AND RESTATED  
BY-LAWS  
OF  
THE GOLDMAN SACHS GROUP, INC.**

**ARTICLE I**

Stockholders

Section 1.1. Annual Meetings. An annual meeting of stockholders shall be held for the election of directors at such date, time and place either within or without the State of Delaware as may be designated by the Board of Directors from time to time. Any other business properly brought before the meeting may be transacted at the annual meeting.

Section 1.2. Special Meetings. Special meetings of stockholders may be called at any time by, and only by, the Board of Directors, to be held at such date, time and place either within or without the State of Delaware as may be stated in the notice of the meeting.

Section 1.3. Notice of Meetings. Whenever stockholders are required or permitted to take any action at a meeting, a written notice of the meeting shall be given which shall state the place, date and hour of the meeting, and, in the case of a special meeting, the purpose or purposes for which the meeting is called. Unless otherwise required by law, the written notice of any meeting shall be given not less than ten nor more than sixty days before the date of the meeting to each stockholder entitled to vote at such meeting. If mailed, such notice shall be deemed to be given when deposited in the United States mail, postage prepaid, directed to the stockholder at such stockholder's address as it appears on the records of the Corporation.

Section 1.4. Adjournments. Any meeting of stockholders, annual or special, may be adjourned from time to time, to reconvene at the same or some other place, and notice need not be given of any such adjourned meeting if the time and place thereof are announced at the meeting at which the adjournment is taken. At the adjourned meeting the Corporation may transact any business which might have been transacted at the original meeting. If the adjournment is for more than thirty days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting.

Section 1.5. Quorum. At each meeting of stockholders, except where otherwise required by law, the certificate of incorporation or these by-laws, the holders of a

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majority of the outstanding shares of stock entitled to vote on a matter at the meeting, present in person or represented by proxy, shall constitute a quorum. For purposes of the foregoing, where a separate vote by class or classes is required for any matter, the holders of a majority of the outstanding shares of such class or classes, present in person or represented by proxy, shall constitute a quorum to take action with respect to that vote on that matter. Two or more classes or series of stock shall be considered a single class if the holders thereof are entitled to vote together as a single class at the meeting. In the absence of a quorum of the holders of any class of stock entitled to vote on a matter, the meeting of such class may be adjourned from time to time in the manner provided by Sections 1.4 and 1.6 of these by-laws until a quorum of such class shall be so present or represented. Shares of its own capital stock belonging on the record date for the meeting to the Corporation or to another corporation, if a majority of the shares entitled to vote in the election of directors of such other corporation is held, directly or indirectly, by the Corporation, shall neither be entitled to vote nor be counted for quorum purposes; provided, however, that the foregoing shall not limit the right of the Corporation to vote stock, including but not limited to its own stock, held by it in a fiduciary capacity.

Section 1.6. Organization. Meetings of stockholders shall be presided over by a Chairman of the Board, if any, or in the absence of a Chairman of the Board by a Vice Chairman of the Board, if any, or in the absence of a Vice Chairman of the Board by a Chief Executive Officer, or in the absence of a Chief Executive Officer by a President, or in the absence of a President by a Chief Operating Officer, or in the absence of a Chief Operating Officer by a Vice President, or in the absence of the foregoing persons by a chairman designated by the Board of Directors, or in the absence of such designation by a chairman chosen at the meeting. A Secretary, or in the absence of a Secretary an Assistant Secretary, shall act as secretary of the meeting, but in the absence of a Secretary and any Assistant Secretary the chairman of the meeting may appoint any person to act as secretary of the meeting.

The order of business at each such meeting shall be as determined by the chairman of the meeting. The chairman of the meeting shall have the right and authority to adjourn a meeting of stockholders without a vote of stockholders and to prescribe such rules, regulations and procedures and to do all such acts and things as are necessary or desirable for the proper conduct of the meeting and are not inconsistent with any rules or regulations adopted by the Board of Directors pursuant to the provisions of the certificate of incorporation, including the establishment of procedures for the maintenance of order and safety, limitations on the time allotted to questions or comments on the affairs of the Corporation, restrictions on entry to such meeting after the time prescribed for the commencement thereof and the opening and closing of the voting polls for each item upon which a vote is to be taken.

Section 1.7. Inspectors. Prior to any meeting of stockholders, the Board of Directors, a Chairman of the Board, a Vice Chairman of the Board, a Chief Executive Officer, a President, a Chief Operating Officer, a Vice President or any other officer designated by the Board shall appoint one or more inspectors to act at such meeting and make a written report thereof and may designate one or more persons as alternate inspectors to replace any inspector who fails to act. If no inspector or alternate is able to

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act at the meeting of stockholders, the person presiding at the meeting shall appoint one or more inspectors to act at the meeting. Each inspector, before entering upon the discharge of his or her duties, shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of his or her ability. The inspectors shall ascertain the number of shares outstanding and the voting power of each, determine the shares represented at the meeting and the validity of proxies and ballots, count all votes and ballots, determine and retain for a reasonable period a record of the disposition of any challenges made to any determination by the inspectors and certify their determination of the number of shares represented at the meeting and their count of all votes and ballots. The inspectors may appoint or retain other persons to assist them in the performance of their duties. The date and time of the opening and closing of the polls for each matter upon which the stockholders will vote at a meeting shall be announced at the meeting. No ballot, proxy or vote, nor any revocation thereof or change thereto, shall be accepted by the inspectors after the closing of the polls. In determining the validity and counting of proxies and ballots, the inspectors shall be limited to an examination of the proxies, any envelopes submitted therewith, any information provided by a stockholder who submits a proxy by telegram, cablegram or other electronic transmission from which it can be determined that the proxy was authorized by the stockholder, ballots and the regular books and records of the Corporation, and they may also consider other reliable information for the limited purpose of reconciling proxies and ballots submitted by or on behalf of banks, brokers, their nominees or similar persons which represent more votes than the holder of a proxy is authorized by the record owner to cast or more votes than the stockholder holds of record. If the inspectors consider other reliable information for such purpose, they shall, at the time they make their certification, specify the precise information considered by them, including the person or persons from whom they obtained the information, when the information was obtained, the means by which the information was obtained and the basis for the inspectors' belief that such information is accurate and reliable.

Section 1.8. Voting; Proxies. Unless otherwise provided in the certificate of incorporation, each stockholder entitled to vote at any meeting of stockholders shall be entitled to one vote for each share of stock held by such stockholder which has voting power upon the matter in question. If the certificate of incorporation provides for more or less than one vote for any share on any matter, every reference in these by-laws to a majority or other proportion of shares of stock shall refer to such majority or other proportion of the votes of such shares of stock. Each stockholder entitled to vote at a meeting of stockholders may authorize another person or persons to act for such stockholder by proxy, but no such proxy shall be voted or acted upon after three years from its date, unless the proxy provides for a longer period. A duly executed proxy shall be irrevocable if it states that it is irrevocable and if, and only as long as, it is coupled with an interest sufficient in law to support an irrevocable power, regardless of whether the interest with which it is coupled is an interest in the stock itself or an interest in the Corporation generally. A stockholder may revoke any proxy which is not irrevocable by attending the meeting and voting in person or by filing an instrument in writing revoking the proxy or another duly executed proxy bearing a later date with a Secretary. Voting at meetings of stockholders need not be by written ballot unless so directed by the chairman of the meeting or the Board of Directors. Directors shall be elected by a plurality of the

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votes of the shares present in person or represented by proxy at the meeting and entitled to vote on the election of directors. In all other matters, unless otherwise required by law, the certificate of incorporation or these by-laws, a majority of the votes cast for or against the matter at the meeting by stockholders entitled to vote on the subject matter shall be the act of the stockholders. Where a separate vote by class or classes is required, the affirmative vote of the holders of a majority (or, in the case of an election of directors, a plurality) of the votes cast for or against the matter at the meeting by stockholders in that class or classes entitled to vote on the subject matter shall be the act of such class or classes, except as otherwise required by law, the certificate of incorporation or these by-laws.

Section 1.9. Fixing Date for Determination of Stockholders of Record. In order that the Corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which record date shall not be more than sixty nor less than ten days before the date of such meeting. If no record date is fixed by the Board of Directors, the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board of Directors may fix a new record date for the adjourned meeting.

In order that the Corporation may determine the stockholders entitled to receive payment of any dividend or other distribution or allotment of any rights or the stockholders entitled to exercise any rights in respect of any change, conversion or exchange of stock, or for the purpose of any other lawful action, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted, and which record date shall be not more than sixty days prior to the action for which a record date is being established. If no record date is fixed, the record date for determining stockholders for any such purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating thereto.

Section 1.10. List of Stockholders Entitled to Vote. A Secretary shall prepare and make, at least ten days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting, arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting, during ordinary business hours, for a period of at least ten days prior to the meeting, either at a place within the municipality where the meeting is to be held, which place shall be specified in the notice of the meeting, or, if not so specified, at the place where the meeting is to be held. The list shall also be produced and kept at the time and place of the meeting during the whole time thereof and may be inspected by any stockholder who is present.

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Section 1.11. Advance Notice of Stockholder Nominees for Director and Other Stockholder Proposals. (a) The matters to be considered and brought before any annual or special meeting of stockholders of the Corporation shall be limited to only such matters, including the nomination and election of directors, as shall be brought properly before such meeting in compliance with the procedures set forth in this Section 1.11.

(b) For any matter to be properly brought before any annual meeting of stockholders, the matter must be (i) specified in the notice of annual meeting given by or at the direction of the Board of Directors, (ii) otherwise brought before the annual meeting by or at the direction of the Board of Directors or (iii) brought before the annual meeting in the manner specified in this Section 1.11(b)(x) by a stockholder that holds of record stock of the Corporation entitled to vote at the annual meeting on such matter (including any election of a director) or (y) by a person (a “Nominee Holder”) that holds such stock through a nominee or “street name” holder of record of such stock and can demonstrate to the Corporation such indirect ownership of, and such Nominee Holder’s entitlement to vote, such stock on such matter. In addition to any other requirements under applicable law, the certificate of incorporation and these by-laws, persons nominated by stockholders for election as directors of the Corporation and any other proposals by stockholders shall be properly brought before an annual meeting of stockholders only if notice of any such matter to be presented by a stockholder at such meeting (a “Stockholder Notice”) shall be delivered to a Secretary at the principal executive office of the Corporation not less than ninety nor more than one hundred and twenty days prior to the first anniversary date of the annual meeting for the preceding year; provided, however, that if and only if the annual meeting is not scheduled to be held within a period that commences thirty days before and ends thirty days after such anniversary date (an annual meeting date outside such period being referred to herein as an “Other Meeting Date”), such Stockholder Notice shall be given in the manner provided herein by the later of (i) the close of business on the date ninety days prior to such Other Meeting Date or (ii) the close of business on the tenth day following the date on which such Other Meeting Date is first publicly announced or disclosed. Any stockholder desiring to nominate any person or persons (as the case may be) for election as a director or directors of the Corporation at an annual meeting of stockholders shall deliver, as part of such Stockholder Notice, a statement in writing setting forth the name of the person or persons to be nominated, the number and class of all shares of each class of stock of the Corporation owned of record and beneficially by each such person, as reported to such stockholder by such person, the information regarding each such person required by paragraphs (a), (e) and (f) of Item 401 of Regulation S-K adopted by the Securities and Exchange Commission, each such person’s signed consent to serve as a director of the Corporation if elected, such stockholder’s name and address, the number and class of all shares of each class of stock of the Corporation owned of record and beneficially by such stockholder and, in the case of a Nominee Holder, evidence establishing such Nominee Holder’s indirect ownership of stock and entitlement to vote such stock for the election of directors at the annual meeting. Any stockholder who gives a Stockholder Notice of any matter (other than a nomination for director) proposed to be brought before an annual meeting of stockholders shall deliver, as part of such Stockholder Notice, the text of the proposal to be presented and a brief written statement of the reasons why such stockholder favors the proposal and setting forth such



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stockholder's name and address, the number and class of all shares of each class of stock of the Corporation owned of record and beneficially by such stockholder, any material interest of such stockholder in the matter proposed (other than as a stockholder), if applicable, and, in the case of a Nominee Holder, evidence establishing such Nominee Holder's indirect ownership of stock and entitlement to vote such stock on the matter proposed at the annual meeting. As used in these by-laws, shares "beneficially owned" shall mean all shares which such person is deemed to beneficially own pursuant to Rules 13d-3 and 13d-5 under the Securities Exchange Act of 1934 (the "Exchange Act"). If a stockholder is entitled to vote only for a specific class or category of directors at a meeting (annual or special), such stockholder's right to nominate one or more individuals for election as a director at the meeting shall be limited to such class or category of directors.

Notwithstanding any provision of this Section 1.11 to the contrary, in the event that the number of directors to be elected to the Board of Directors of the Corporation at the next annual meeting of stockholders is increased by virtue of an increase in the size of the Board of Directors and either all of the nominees for director at the next annual meeting of stockholders or the size of the increased Board of Directors is not publicly announced or disclosed by the Corporation at least one hundred days prior to the first anniversary of the preceding year's annual meeting, a Stockholder Notice shall also be considered timely hereunder, but only with respect to nominees to stand for election at the next annual meeting as the result of any new positions created by such increase, if it shall be delivered to a Secretary at the principal executive office of the Corporation not later than the close of business on the tenth day following the first day on which all such nominees or the size of the increased Board of Directors shall have been publicly announced or disclosed.

(c) Except as provided in the immediately following sentence, no matter shall be properly brought before a special meeting of stockholders unless such matter shall have been brought before the meeting pursuant to the Corporation's notice of such meeting. In the event the Corporation calls a special meeting of stockholders for the purpose of electing one or more directors to the Board of Directors, any stockholder entitled to vote for the election of such director(s) at such meeting may nominate a person or persons (as the case may be) for election to such position(s) as are specified in the Corporation's notice of such meeting, but only if the Stockholder Notice required by Section 1.11(b) hereof shall be delivered to a Secretary at the principal executive office of the Corporation not later than the close of business on the tenth day following the first day on which the date of the special meeting and either the names of all nominees proposed by the Board of Directors to be elected at such meeting or the number of directors to be elected shall have been publicly announced or disclosed.

(d) For purposes of this Section 1.11, a matter shall be deemed to have been "publicly announced or disclosed" if such matter is disclosed in a press release reported by the Dow Jones News Service, the Associated Press or a comparable national news service or in a document publicly filed by the Corporation with the Securities and Exchange Commission.

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(e) In no event shall the adjournment of an annual meeting or a special meeting, or any announcement thereof, commence a new period for the giving of notice as provided in this Section 1.11. This Section 1.11 shall not apply to (i) any stockholder proposal made pursuant to Rule 14a-8 under the Exchange Act or (ii) any nomination of a director in an election in which only the holders of one or more series of Preferred Stock of the Corporation issued pursuant to Article FOURTH of the certificate of incorporation are entitled to vote (unless otherwise provided in the terms of such stock).

(f) The chairman of any meeting of stockholders, in addition to making any other determinations that may be appropriate to the conduct of the meeting, shall have the power and duty to determine whether notice of nominees and other matters proposed to be brought before a meeting has been duly given in the manner provided in this Section 1.11 and, if not so given, shall direct and declare at the meeting that such nominees and other matters shall not be considered.

Section 1.12. Approval of Stockholder Proposals. Except as otherwise required by law, any matter (other than a nomination for director) that has been properly brought before an annual or special meeting of stockholders of the Corporation by a stockholder (including a Nominee Holder) in compliance with the procedures set forth in Section 1.11 shall require for approval thereof the affirmative vote of the holders of not less than a majority of all outstanding shares of Common Stock of the Corporation and all other outstanding shares of stock of the Corporation entitled to vote on such matter, with such outstanding shares of Common Stock and other stock considered for this purpose as a single class. Any vote of stockholders required by this Section 1.12 shall be in addition to any other vote of stockholders of the Corporation that may be required by law, the certificate of incorporation or these by-laws, by any agreement with a national securities exchange or otherwise.

## ARTICLE II

### Board of Directors

Section 2.1. Powers; Number; Qualifications. The business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors, except as may be otherwise required by law or provided in the certificate of incorporation. The number of directors of the Corporation shall be fixed only by resolution of the Board of Directors from time to time. If the holders of any class or classes of stock or series thereof are entitled by the certificate of incorporation to elect one or more directors, the preceding sentence shall not apply to such directors and the number of such directors shall be as provided in the terms of such stock. Directors need not be stockholders.

Section 2.2. Election; Term of Office; Resignation; Removal; Vacancies. Each director who is serving as a director on the effective date of these Amended and Restated By-Laws shall hold office until the next annual meeting of stockholders after such date, and until his or her successor is elected and qualified or until his or her earlier resignation or removal, notwithstanding that such director may have been elected for a term that extended beyond the date of such next annual meeting of stockholders. At each annual

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meeting of stockholders after the effective date of these Amended and Restated By-Laws, directors elected at such annual meeting shall hold office until the next annual meeting of stockholders, and until their successors are elected and qualified or until their earlier resignation or removal. Any director may resign at any time upon written notice to the Board of Directors or to a Chairman of the Board, a Vice Chairman of the Board, a Chief Executive Officer, a President, a Chief Operating Officer or a Secretary. Such resignation shall take effect at the time specified therein, and unless otherwise specified therein no acceptance of such resignation shall be necessary to make it effective. No director may be removed except as provided in the certificate of incorporation. Vacancies and newly created directorships resulting from any increase in the authorized number of directors (other than any directors elected in the manner described in the next sentence) or from any other cause shall be filled by, and only by, a majority of the directors then in office, although less than a quorum, or by the sole remaining director. Whenever the holders of any class or classes of stock or series thereof are entitled by the certificate of incorporation to elect one or more directors, vacancies and newly created directorships of such class or classes or series may be filled by, and only by, a majority of the directors elected by such class or classes or series then in office, or by the sole remaining director so elected. Any director elected or appointed to fill a vacancy or a newly created directorship shall hold office until the next annual meeting of stockholders, and until his or her successor is elected and qualified or until his or her earlier resignation or removal.

Section 2.3. Regular Meetings. Regular meetings of the Board of Directors may be held at such places within or without the State of Delaware and at such times as the Board may from time to time determine, and if so determined notice thereof need not be given.

Section 2.4. Special Meetings. Special meetings of the Board of Directors may be held at any time or place within or without the State of Delaware whenever called by the Board, by a Chairman of the Board, if any, by a Vice Chairman of the Board, if any, by a Chairperson of the Corporate Governance and Nominating Committee, if any, by a Chief Executive Officer, if any, by a President, if any, by a Chief Operating Officer, if any, or by any two directors. Reasonable notice thereof shall be given by the person or persons calling the meeting.

Section 2.5. Participation in Meetings by Conference Telephone Permitted. Unless otherwise restricted by the certificate of incorporation or these by-laws, members of the Board of Directors, or any committee designated by the Board, may participate in a meeting of the Board or of such committee, as the case may be, by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting pursuant to this by-law shall constitute presence in person at such meeting.

Section 2.6. Quorum; Vote Required for Action. At each meeting of the Board of Directors, one-half of the number of directors equal to (i) the total number of directors fixed by resolution of the board of directors (including any vacancies) plus (ii) the number of directors elected by a holder or holders of Preferred Stock voting separately as a class, as described in the fourth paragraph of Article EIGHTH of the certificate of

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incorporation (including any vacancies), shall constitute a quorum for the transaction of business. The vote of a majority of the directors present at a meeting at which a quorum is present shall be the act of the Board unless the certificate of incorporation or these by-laws shall require a vote of a greater number. In case at any meeting of the Board a quorum shall not be present, the members or a majority of the members of the Board present may adjourn the meeting from time to time until a quorum shall be present.

Section 2.7. Organization. Meetings of the Board of Directors shall be presided over by a Chairman of the Board, if any, or in the absence of a Chairman of the Board by a Vice Chairman of the Board, if any, or in the absence of a Vice Chairman of the Board, by a Chief Executive Officer, or in the absence of a Chief Executive Officer, by a President, or in the absence of a President, by a Chief Operating Officer, or in the absence of a Chief Operating Officer, by a chairman chosen at the meeting. A Secretary, or in the absence of a Secretary an Assistant Secretary, shall act as secretary of the meeting, but in the absence of a Secretary and any Assistant Secretary the chairman of the meeting may appoint any person to act as secretary of the meeting.

Section 2.8. Action by Directors Without a Meeting. Unless otherwise restricted by the certificate of incorporation or these by-laws, any action required or permitted to be taken at any meeting of the Board of Directors, or of any committee thereof, may be taken without a meeting if all members of the Board or of such committee, as the case may be, then in office consent thereto in writing, and the writing or writings are filed with the minutes of proceedings of the Board or committee.

Section 2.9. Compensation of Directors. Unless otherwise restricted by the certificate of incorporation or these by-laws, the Board of Directors shall have the authority to fix the compensation of directors.

### ARTICLE III

#### Committees

Section 3.1. Committees. The Board of Directors may designate one or more committees, each committee to consist of one or more of the directors of the Corporation. The Board may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of a member of a committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not such member or members constitute a quorum, may unanimously appoint another member of the Board to act at the meeting in the place of any such absent or disqualified member. Any such committee, to the extent provided in the resolution of the Board of Directors or in these by-laws, shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the Corporation, and may authorize the seal of the Corporation to be affixed to all papers which may require it; but no such committee shall have the power or authority in reference to the following matters: (i) approving or adopting, or recommending to the stockholders, any action or

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matter expressly required by law to be submitted to stockholders for approval or (ii) adopting, amending or repealing these by-laws.

Section 3.2. Committee Rules. Unless the Board of Directors otherwise provides, each committee designated by the Board may adopt, amend and repeal rules for the conduct of its business. In the absence of a provision by the Board or a provision in the rules of such committee to the contrary, a majority of the entire authorized number of members of such committee shall constitute a quorum for the transaction of business, the vote of a majority of the members present at a meeting at the time of such vote if a quorum is then present shall be the act of such committee, and in other respects each committee shall conduct its business in the same manner as the Board conducts its business pursuant to Article II of these by-laws.

## ARTICLE IV

### Officers

Section 4.1. Officers; Election or Appointment. The Board of Directors shall take such action as may be necessary from time to time to ensure that the Corporation has such officers as are necessary, under Section 5.1 of these by-laws and the Delaware General Corporation Law as currently in effect or as the same may hereafter be amended, to enable it to sign stock certificates. In addition, the Board of Directors at any time and from time to time may elect (i) one or more Chairmen of the Board and/or one or more Vice Chairmen of the Board from among its members, (ii) one or more Chief Executive Officers, one or more Presidents and/or one or more Chief Operating Officers, (iii) one or more Vice Presidents, one or more Treasurers and/or one or more Secretaries and/or (iv) one or more other officers, in the case of each of (i), (ii), (iii) and (iv) if and to the extent the Board deems desirable. The Board of Directors may give any officer such further designations or alternate titles as it considers desirable. In addition, the Board of Directors at any time and from time to time may authorize any officer of the Corporation to appoint one or more officers of the kind described in clauses (iii) and (iv) above. Any number of offices may be held by the same person and directors may hold any office unless the certificate of incorporation or these by-laws otherwise provide.

Section 4.2. Term of Office; Resignation; Removal; Vacancies. Unless otherwise provided in the resolution of the Board of Directors electing or authorizing the appointment of any officer, each officer shall hold office until his or her successor is elected or appointed and qualified or until his or her earlier resignation or removal. Any officer may resign at any time upon written notice to the Board or to such person or persons as the Board may designate. Such resignation shall take effect at the time specified therein, and unless otherwise specified therein no acceptance of such resignation shall be necessary to make it effective. The Board may remove any officer with or without cause at any time. Any officer authorized by the Board to appoint a person to hold an office of the Corporation may also remove such person from such office with or without cause at any time, unless otherwise provided in the resolution of the Board providing such authorization. Any such removal shall be without prejudice to the contractual rights of such officer, if any, with the Corporation, but the election or

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appointment of an officer shall not of itself create contractual rights. Any vacancy occurring in any office of the Corporation by death, resignation, removal or otherwise may be filled by the Board at any regular or special meeting or by an officer authorized by the Board to appoint a person to hold such office.

Section 4.3. Powers and Duties. The officers of the Corporation shall have such powers and duties in the management of the Corporation as shall be stated in these by-laws or in a resolution of the Board of Directors which is not inconsistent with these by-laws and, to the extent not so stated, as generally pertain to their respective offices, subject to the control of the Board. A Secretary or such other officer appointed to do so by the Board shall have the duty to record the proceedings of the meetings of the stockholders, the Board of Directors and any committees in a book to be kept for that purpose. The Board may require any officer, agent or employee to give security for the faithful performance of his or her duties.

## ARTICLE V

### Stock

Section 5.1. Certificates; Uncertificated Shares. The shares of stock in the Corporation shall be represented by certificates, provided that the Board of Directors of the Corporation may provide by resolution or resolutions that some or all of any or all classes or series of its stock shall be uncertificated shares. Any such resolution shall not apply to any such shares represented by a certificate theretofore issued until such certificate is surrendered to the Corporation. Every holder of stock represented by certificates shall be entitled to have a certificate signed by or in the name of the Corporation by a Chairman or Vice Chairman of the Board or a President or Vice President, and by a Treasurer, Assistant Treasurer, Secretary or Assistant Secretary, representing the number of shares of stock in the Corporation owned by such holder. If such certificate is manually signed by one officer or manually countersigned by a transfer agent or by a registrar, any other signature on the certificate may be a facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the Corporation with the same effect as if such person were such officer, transfer agent or registrar at the date of issue. Certificates representing shares of stock of the Corporation may bear such legends regarding restrictions on transfer or other matters as any officer or officers of the Corporation may determine to be appropriate and lawful.

If the Corporation is authorized to issue more than one class of stock or more than one series of any class, the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications or restrictions of such preferences and/or rights shall be set forth in full or summarized on the face or back of the certificate which the Corporation shall issue to represent such class or series of stock, provided that, except as otherwise required by law, in lieu of the foregoing requirements, there may be set forth on the face or back of the certificate which the Corporation shall issue to represent such class or series of stock a

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statement that the Corporation will furnish without charge to each stockholder who so requests the powers, designations, preferences and relative, participating, optional or other special rights of such class or series of stock and the qualifications, limitations or restrictions of such preferences and/or rights. Within a reasonable time after the issuance or transfer of uncertificated shares of any class or series of stock, the Corporation shall send to the registered owner thereof a written notice containing the information required by law to be set forth or stated on certificates representing shares of such class or series or a statement that the Corporation will furnish without charge to each stockholder who so requests the powers, designations, preferences and relative, participating, optional or other special rights of such class or series and the qualifications, limitations or restrictions of such preferences and/or rights.

Except as otherwise provided by law or these by-laws, the rights and obligations of the holders of uncertificated shares and the rights and obligations of the holders of certificates representing stock of the same class and series shall be identical.

Section 5.2. Lost, Stolen or Destroyed Stock Certificates; Issuance of New Certificates. The Corporation may issue a new certificate of stock in the place of any certificate theretofore issued by it, alleged to have been lost, stolen or destroyed, and the Corporation may require the owner of the lost, stolen or destroyed certificate, or such owner's legal representative, to give the Corporation a bond sufficient to indemnify it against any claim that may be made against it on account of the alleged loss, theft or destruction of any such certificate or the issuance of such new certificate.

## ARTICLE VI

### Miscellaneous

Section 6.1. Fiscal Year. The fiscal year of the Corporation shall be determined by the Board of Directors.

Section 6.2. Seal. The Corporation may have a corporate seal which shall have the name of the Corporation inscribed thereon and shall be in such form as may be approved from time to time by the Board of Directors. The corporate seal may be used by causing it or a facsimile thereof to be impressed or affixed or in any other manner reproduced.

Section 6.3. Waiver of Notice of Meetings of Stockholders, Directors and Committees. Whenever notice is required to be given by law or under any provision of the certificate of incorporation or these by-laws, a written waiver thereof, signed by the person entitled to notice, whether before or after the time stated therein, shall be deemed equivalent to notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the stockholders, directors or members of a committee of directors need be specified in any written waiver of notice unless so required by the certificate of incorporation or these by-laws.

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Section 6.4. Indemnification. The Corporation shall indemnify to the full extent permitted by law any person made or threatened to be made a party to any action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that such person or such person's testator or intestate is or was a director or officer of the Corporation, is or was a director, officer, trustee, member, stockholder, partner, incorporator or liquidator of a Subsidiary of the Corporation, is or was a member of the Shareholders' Committee acting pursuant to the Amended and Restated Shareholders' Agreement, dated as of May 7, 1999, and amended as of June 22, 2004, among the Corporation and the Covered Persons listed on Appendix A thereto, as amended from time to time, or serves or served at the request of the Corporation as a director, officer, trustee, member, stockholder, partner, incorporator or liquidator of or in any other capacity for any other enterprise. Expenses, including attorneys' fees, incurred by any such person in defending any such action, suit or proceeding shall be paid or reimbursed by the Corporation promptly upon demand by such person and, if any such demand is made in advance of the final disposition of any such action, suit or proceeding, promptly upon receipt by the Corporation of an undertaking of such person to repay such expenses if it shall ultimately be determined that such person is not entitled to be indemnified by the Corporation. The rights provided to any person by this by-law shall be enforceable against the Corporation by such person, who shall be presumed to have relied upon it in serving or continuing to serve as a director or officer or in such other capacity as provided above. In addition, the rights provided to any person by this by-law shall survive the termination of such person as any such director, officer, trustee, member, stockholder, partner, incorporator or liquidator and, insofar as such person served at the request of the Corporation as a director, officer, trustee, member, stockholder, partner, incorporator or liquidator of or in any other capacity for any other enterprise, shall survive the termination of such request as to service prior to termination of such request. No amendment of this by-law shall impair the rights of any person arising at any time with respect to events occurring prior to such amendment.

Notwithstanding anything contained in this Section 6.4, except for proceedings to enforce rights provided in this Section 6.4, the Corporation shall not be obligated under this Section 6.4 to provide any indemnification or any payment or reimbursement of expenses to any director, officer or other person in connection with a proceeding (or part thereof) initiated by such person (which shall not include counterclaims or crossclaims initiated by others) unless the Board of Directors has authorized or consented to such proceeding (or part thereof) in a resolution adopted by the Board.

For purposes of this by-law, the term "Subsidiary" shall mean any corporation, partnership, limited liability company or other entity in which the Corporation owns, directly or indirectly, a majority of the economic or voting ownership interest; the term "other enterprise" shall include any corporation, partnership, limited liability company, joint venture, trust, association or other unincorporated organization or other entity and any employee benefit plan; the term "officer," when used with respect to the Corporation, shall refer to any officer elected by or appointed pursuant to authority granted by the Board of Directors of the Corporation pursuant to clauses (i), (ii), (iii) and (iv) of Section 4.1 of these by-laws, when used with respect to a Subsidiary or other enterprise that is a corporation, shall refer to any person elected or appointed pursuant to the by-



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laws of such Subsidiary or other enterprise or chosen in such manner as is prescribed by the by-laws of such Subsidiary or other enterprise or determined by the board of directors of such Subsidiary or other enterprise, and when used with respect to a Subsidiary or other enterprise that is not a corporation or is organized in a foreign jurisdiction, the term “officer” shall include in addition to any officer of such entity, any person serving in a similar capacity or as the manager of such entity; service “at the request of the Corporation” shall include service as a director or officer of the Corporation which imposes duties on, or involves services by, such director or officer with respect to an employee benefit plan, its participants or beneficiaries; any excise taxes assessed on a person with respect to an employee benefit plan shall be deemed to be indemnifiable expenses; and action by a person with respect to an employee benefit plan which such person reasonably believes to be in the interest of the participants and beneficiaries of such plan shall be deemed to be action not opposed to the best interests of the Corporation.

To the extent authorized from time to time by the Board of Directors, the Corporation may provide to (i) any one or more employees and other agents of the Corporation, (ii) any one or more officers, employees and other agents of any Subsidiary and (iii) any one or more directors, officers, employees and other agents of any other enterprise, rights of indemnification and to receive payment or reimbursement of expenses, including attorneys’ fees, that are similar to the rights conferred in this Section 6.4 on directors and officers of the Corporation or any Subsidiary or other enterprise. Any such rights shall have the same force and effect as they would have if they were conferred in this Section 6.4.

Nothing in this Section 6.4 shall limit the power of the Corporation or the Board of Directors to provide rights of indemnification and to make payment and reimbursement of expenses, including attorneys’ fees, to directors, officers, employees, agents and other persons otherwise than pursuant to this Section 6.4.

Section 6.5. Interested Directors; Quorum. No contract or transaction between the Corporation and one or more of its directors or officers, or between the Corporation and any other corporation, partnership, limited liability company, joint venture, trust, association or other unincorporated organization or other entity in which one or more of its directors or officers serve as directors, officers, trustees or in a similar capacity or have a financial interest, shall be void or voidable solely for this reason, or solely because the director or officer is present at or participates in the meeting of the Board of Directors or committee thereof which authorizes the contract or transaction, or solely because his or her or their votes are counted for such purpose, if: (i) the material facts as to his or her relationship or interest and as to the contract or transaction are disclosed or are known to the Board or the committee, and the Board or committee in good faith authorizes the contract or transaction by the affirmative votes of a majority of the disinterested directors, even though the disinterested directors be less than a quorum; (ii) the material facts as to his or her relationship or interest and as to the contract or transaction are disclosed or are known to the stockholders entitled to vote thereon, and the contract or transaction is specifically approved in good faith by a vote of the stockholders; or (iii) the contract or transaction is fair as to the Corporation as of the time it is authorized, approved or

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ratified, by the Board, a committee thereof or the stockholders. Common or interested directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or of a committee which authorizes the contract or transaction.

Section 6.6. Form of Records. Any records maintained by the Corporation in the regular course of its business, including its stock ledger, books of account and minute books, may be kept on, or be in the form of, punch cards, magnetic tape, photographs, microphotographs or any other information storage device, provided that the records so kept can be converted into clearly legible form within a reasonable time. The Corporation shall so convert any records so kept upon the request of any person entitled to inspect the same.

Section 6.7. Laws and Regulations; Close of Business. (a) For purposes of these by-laws, any reference to a statute, rule or regulation of any governmental body means such statute, rule or regulation (including any successor thereto) as the same may be amended from time to time.

(b) Any reference in these by-laws to the close of business on any day shall be deemed to mean 5:00 P.M. New York time on such day, whether or not such day is a business day.

Section 6.8. Amendment of By-Laws. These by-laws may be amended, modified or repealed, and new by-laws may be adopted at any time, by the Board of Directors. Stockholders of the Corporation may adopt additional by-laws and amend, modify or repeal any by-law whether or not adopted by them, but only in accordance with Article SIXTH of the certificate of incorporation.

The Goldman Sachs Group, Inc. | 85 Broad Street | New York, New York 10004



**GOLDMAN SACHS REPORTS THIRD QUARTER RECORD  
EARNINGS PER COMMON SHARE OF \$3.25**

NEW YORK, September 20, 2005 — The Goldman Sachs Group, Inc. (NYSE: GS) today reported net earnings of \$1.62 billion for its fiscal third quarter ended August 26, 2005. Diluted earnings per common share were \$3.25 compared with \$1.74 for the third quarter of 2004 and \$1.71 for the second quarter of 2005. Annualized return on average tangible common shareholders' equity <sup>(1)</sup> was 32.0% for the third quarter of 2005 and 26.2% for the first nine months of 2005. Annualized return on average common shareholders' equity was 25.1% for the third quarter of 2005 and 20.7% for the first nine months of 2005.

**Business Highlights**

- Goldman Sachs achieved its best quarterly results, generating record net revenues, net earnings and diluted earnings per common share.
- The firm currently ranks first in worldwide announced mergers and acquisitions, equity and equity-related offerings and public common stock offerings for the calendar year-to-date. <sup>(2)</sup>
- Investment Banking generated net revenues of \$1.02 billion, its best quarterly performance in four years.
- Fixed Income, Currency and Commodities (FICC) generated record quarterly net revenues of \$2.63 billion, reflecting strength across the franchise.
- Equities produced net revenues of \$1.59 billion, 75% above last year's third quarter, reflecting strong performance across all major businesses.
- Asset Management generated net revenues of \$731 million, 23% above last year's third quarter. Assets under management increased 22% from a year ago to a record \$520 billion, with net asset inflows of \$18 billion during the quarter.
- Securities Services achieved its second best quarter, producing net revenues of \$477 million.

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“This quarter's record results reflect the increasing confidence of our corporate and investor clients and the success our people have had in serving their needs,” said Henry M. Paulson, Jr., Chairman and Chief Executive Officer. “During the third quarter, we saw increasing activity levels across all of our major businesses and believe overall market conditions support a generally optimistic outlook.”

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Media Relations: Peter Rose 212-902-5400 | Investor Relations: John Andrews 212-357-2674

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## Net Revenues

### **Investment Banking**

Net revenues in Investment Banking were \$1.02 billion, 14% higher than the third quarter of 2004 and 25% higher than the second quarter of 2005. Net revenues in Financial Advisory increased significantly to \$559 million, which was 24% higher than the third quarter of 2004, primarily reflecting an increase in industry-wide completed mergers and acquisitions. Net revenues in the firm's Underwriting business were \$456 million, 4% higher than the third quarter of 2004, reflecting higher net revenues in debt underwriting, primarily due to an increase in investment-grade issuances, partially offset by lower net revenues in equity underwriting. The firm's investment banking backlog decreased during the quarter, but was higher than at the end of 2004.

### **Trading and Principal Investments**

Net revenues in Trading and Principal Investments were \$5.06 billion, 88% higher than the third quarter of 2004 and 80% higher than the second quarter of 2005.

Net revenues in FICC were \$2.63 billion, 41% higher than the third quarter of 2004. The business operated in a favorable environment as credit markets strengthened and customer-driven activity was strong. The increase in net revenues was driven by significantly higher net revenues in credit products as well as currencies. Net revenues were also higher in mortgages, while results in commodities and interest rate products were strong, but lower than the third quarter of 2004.

Net revenues in Equities were \$1.59 billion, 75% higher than the third quarter of 2004, as the business operated in a favorable environment, characterized by strong customer-driven activity and generally higher equity prices. Net revenues were significantly higher in the firm's principal strategies and customer franchise businesses. Results in principal strategies reflected strong performance across all regions and most sectors, while net revenues in the firm's customer franchise businesses reflected improved results in shares, derivatives and convertibles.

Principal Investments recorded net revenues of \$843 million, reflecting a \$498 million gain (as compared with a loss of \$245 million in the third quarter of 2004) related to the firm's investment in the convertible preferred stock of Sumitomo Mitsui Financial Group, Inc. (SMFG) and \$345 million in gains and overrides from other corporate and, to a lesser extent, real estate principal investments.

### **Asset Management and Securities Services**

Net revenues in Asset Management and Securities Services were \$1.21 billion, 28% higher than the third quarter of 2004 and 3% higher than the second quarter of 2005.

Asset Management net revenues were \$731 million, 23% higher than the third quarter of 2004, reflecting higher management fees, driven by growth in assets under management, as well as higher incentive fees. During the quarter, assets under management increased 6%, reflecting net asset inflows of \$18 billion in equity, alternative investment and fixed income assets as well as market appreciation of \$12 billion, primarily in equity assets.

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Securities Services net revenues were \$477 million, 38% higher than the third quarter of 2004, as the firm's prime brokerage business continued to generate strong results, primarily reflecting significantly higher global customer balances in securities lending and margin lending.

### **Expenses**

Operating expenses were \$4.88 billion, 51% higher than the third quarter of 2004 and 37% higher than the second quarter of 2005.

#### **Compensation Expenses**

Compensation and benefits expenses were \$3.64 billion, 61% higher than the third quarter of 2004, commensurate with higher net revenues. The ratio of compensation and benefits to net revenues was 50.0% for the first nine months of 2005, consistent with the first nine months of 2004. <sup>(3)</sup> Employment levels increased 5% during the quarter and 6% compared with the end of 2004.

#### **Non-Compensation Expenses**

Non-compensation expenses were \$1.24 billion, 28% higher than the third quarter of 2004. Other expenses increased primarily due to higher expenses from consolidated entities held for investment purposes and higher levels of business activity. Brokerage, clearing and exchange fees increased due to higher transaction volumes, particularly in FICC. Occupancy expenses were higher primarily due to \$20 million of costs associated with the relocation of office space as well as increased expenses related to consolidated entities held for investment purposes. Professional fees increased primarily due to higher legal fees. Market development costs increased primarily due to higher levels of business activity. Excluding non-compensation expenses related to consolidated entities held for investment purposes <sup>(4)</sup>, non-compensation expenses were 18% higher than the third quarter of 2004 and 3% higher than the second quarter of 2005.

#### **Provision For Taxes**

The effective income tax rate was 31.1% for the first nine months of 2005, up from 29.9% for the first six months of 2005. Excluding the impact of audit settlements in 2005, the effective income tax rate for the first nine months of 2005 would have been 32.9%, essentially unchanged from the first six months of 2005 and up from 31.8% for fiscal year 2004. The increase in the effective tax rate for the first nine months of 2005 compared with fiscal year 2004 was primarily due to lower tax credits and increased state and local taxes in 2005.

### **Capital**

As of August 26, 2005, total capital was \$128.21 billion, consisting of \$26.61 billion in total shareholders' equity (common equity of \$25.86 billion and preferred equity of \$750 million) and \$101.60 billion in long-term debt. <sup>(5)</sup> Book value per common share was \$55.39 based on common shares outstanding, including restricted stock units granted to employees with no future service requirements, of 466.8 million at period end. Tangible book value per common share was \$43.67. <sup>(1)</sup>

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The firm repurchased 16.3 million shares of its common stock during the quarter at an average price of \$106.76 per share. On September 16, 2005, the Board of Directors of The Goldman Sachs Group, Inc. (the Board) authorized the repurchase of an additional 60.0 million shares of common stock pursuant to the firm's existing share repurchase program. The remaining share authorization under the firm's existing common stock repurchase program, including the newly-authorized amount, is 63.2 million shares.

### **Dividends**

The Board declared a dividend of \$0.25 per common share to be paid on November 21, 2005 to common shareholders of record on October 24, 2005. The Board also declared a dividend of \$288.14 per share of Series A Preferred Stock (represented by depositary shares, each representing a 1/1000<sup>th</sup> interest in a share of Series A Preferred Stock) to be paid on November 10, 2005 to preferred shareholders of record on October 26, 2005.

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Goldman Sachs is a leading global investment banking, securities and investment management firm that provides a wide range of services worldwide to a substantial and diversified client base that includes corporations, financial institutions, governments and high net worth individuals. Founded in 1869, it is one of the oldest and largest investment banking firms. The firm is headquartered in New York and maintains offices in London, Frankfurt, Tokyo, Hong Kong and other major financial centers around the world.

### Cautionary Note Regarding Forward-Looking Statements

This press release contains "forward-looking statements." These statements are not historical facts but instead represent only the firm's belief regarding future events, many of which, by their nature, are inherently uncertain and outside of the firm's control. It is possible that the firm's actual results and financial condition may differ, possibly materially, from the anticipated results and financial condition indicated in these forward-looking statements. For a discussion of some of the risks and important factors that could affect the firm's future results, see "Business – Certain Factors That May Affect Our Business" in Part I, Item 1 of the firm's Annual Report on Form 10-K for the fiscal year ended November 26, 2004.

Statements about the firm's investment banking transaction backlog also may constitute forward-looking statements. Such statements are subject to the risk that the terms of these transactions may be modified or that they may not be completed at all; therefore, the net revenues that the firm expects to earn from these transactions may differ, possibly materially, from those currently expected. Important factors that could result in a modification of the terms of a transaction or a transaction not being completed include, in the case of underwriting transactions, a decline in general economic conditions, volatility in the securities markets generally or an adverse development with respect to the issuer of the securities and, in the case of financial advisory transactions, a decline in the securities markets, an adverse development with respect to a party to the transaction or a failure to obtain a required regulatory approval. For a discussion of other important factors that could adversely affect the firm's investment banking transactions, see "Business – Certain Factors That May Affect Our Business" in Part I, Item 1 of the firm's Annual Report on Form 10-K for the fiscal year ended November 26, 2004.

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### Conference Call

A conference call to discuss the firm's results, outlook and related matters will be held at 11:00 am (ET). The call will be open to the public. Members of the public who would like to listen to the conference call should dial 1-888-281-7154 (U.S. domestic) and 1-706-679-5627 (international). The number should be dialed at least 10 minutes prior to the start of the conference call. The conference call will also be accessible as an audio webcast through the Investor Relations section of the firm's Web site, [http://www.gs.com/our\\_firm/investor\\_relations/](http://www.gs.com/our_firm/investor_relations/). There is no charge to access the call. For those unable to listen to the live broadcast, a replay will be available on the firm's Web site or by dialing 1-800-642-1687 (U.S. domestic) or 1-706-645-9291 (international) passcode number 9098839, beginning approximately two hours after the event. Please direct any questions regarding obtaining access to the conference call to Goldman Sachs Investor Relations, via e-mail, at [gs-investor-relations@gs.com](mailto:gs-investor-relations@gs.com).

**THE GOLDMAN SACHS GROUP, INC. AND SUBSIDIARIES**  
**SEGMENT NET REVENUES**  
(UNAUDITED)  
*\$ in millions*

	Three Months Ended			% Change From	
	Aug. 26, 2005	May 27, 2005	Aug. 27, 2004	May 27, 2005	Aug. 27, 2004
<b>Investment Banking</b>					
Financial Advisory	\$ 559	\$ 386	\$ 451	45%	24%
Equity underwriting	199	114	218	75	(9)
Debt underwriting	257	315	221	(18)	16
Total Underwriting	456	429	439	6	4
Total Investment Banking	1,015	815	890	25	14
<b>Trading and Principal Investments</b>					
FICC	2,626	1,519	1,868	73	41
Equities trading	872	372	302	134	189
Equities commissions	721	733	608	(2)	19
Total Equities	1,593	1,105	910	44	75
SMFG	498	73	(245)	N.M.	N.M.
Other corporate and real estate gains and losses	205	107	163	92	26
Overrides	140	9	3	N.M.	N.M.
Total Principal Investments	843	189	(79)	N.M.	N.M.
Total Trading and Principal Investments	5,062	2,813	2,699	80	88
<b>Asset Management and Securities Services</b>					
Asset Management	731	689	596	6	23
Securities Services	477	489	345	(2)	38
Total Asset Management and Securities Services	1,208	1,178	941	3	28
Total net revenues	\$ 7,285	\$ 4,806	\$ 4,530	52	61

	Nine Months Ended		% Change From
	Aug. 26, 2005	Aug. 27, 2004	Aug. 27, 2004
<b>Investment Banking</b>			
Financial Advisory	\$ 1,359	\$ 1,323	3%



Equity underwriting	499	650	(23)
Debt underwriting	<u>865</u>	<u>633</u>	<u>37</u>
Total Underwriting	<u>1,364</u>	<u>1,283</u>	<u>6</u>
Total Investment Banking	<u>2,723</u>	<u>2,606</u>	<u>4</u>
<b>Trading and Principal Investments</b>			
FICC	6,634	5,863	13
Equities trading	2,073	1,599	30
Equities commissions	<u>2,175</u>	<u>2,049</u>	<u>6</u>
Total Equities	<u>4,248</u>	<u>3,648</u>	<u>16</u>
SMFG	752	517	45
Other corporate and real estate gains and losses	460	330	39
Overrides	<u>164</u>	<u>90</u>	<u>82</u>
Total Principal Investments	<u>1,376</u>	<u>937</u>	<u>47</u>
Total Trading and Principal Investments	<u>12,258</u>	<u>10,448</u>	<u>17</u>
<b>Asset Management and Securities Services</b>			
Asset Management	2,169	1,958	11
Securities Services	<u>1,346</u>	<u>957</u>	<u>41</u>
Total Asset Management and Securities Services	<u>3,515</u>	<u>2,915</u>	<u>21</u>
Total net revenues	<u>\$ 18,496</u>	<u>\$ 15,969</u>	<u>16</u>

**THE GOLDMAN SACHS GROUP, INC. AND SUBSIDIARIES**  
**CONSOLIDATED STATEMENTS OF EARNINGS**  
**(UNAUDITED)**

*In millions, except per share amounts and employees*

	Three Months Ended			% Change From	
	Aug. 26, 2005	May 27, 2005	Aug. 27, 2004	May 27, 2005	Aug. 27, 2004
<b>Revenues</b>					
Investment banking	\$ 998	\$ 796	\$ 854	25%	17%
Trading and principal investments	4,842	2,562	2,424	89	100
Asset management and securities services	772	724	620	7	25
Interest income	5,721	4,867	2,905	18	97
<b>Total revenues</b>	<b>12,333</b>	<b>8,949</b>	<b>6,803</b>	<b>38</b>	<b>81</b>
Interest expense	4,940	4,022	2,156	23	129
Cost of power generation <sup>(6)</sup>	108	121	117	(11)	(8)
<b>Revenues, net of interest expense and cost of power generation</b>	<b>7,285</b>	<b>4,806</b>	<b>4,530</b>	<b>52</b>	<b>61</b>
<b>Operating expenses</b>					
Compensation and benefits <sup>(3)</sup>	3,642	2,403	2,269	52	61
Brokerage, clearing and exchange fees	271	274	228	(1)	19
Market development	92	94	76	(2)	21
Communications and technology	124	123	111	1	12
Depreciation and amortization	125	128	117	(2)	7
Amortization of identifiable intangible assets	31	31	31	—	—
Occupancy	200	186	157	8	27
Professional fees	117	109	91	7	29
Other expenses	278	214	157	30	77
<b>Total non-compensation expenses</b>	<b>1,238</b>	<b>1,159</b>	<b>968</b>	<b>7</b>	<b>28</b>
<b>Total operating expenses</b>	<b>4,880</b>	<b>3,562</b>	<b>3,237</b>	<b>37</b>	<b>51</b>
Pre-tax earnings	2,405	1,244	1,293	93	86
Provision for taxes	788	379	414	108	90
<b>Net earnings</b>	<b>1,617</b>	<b>865</b>	<b>879</b>	<b>87</b>	<b>84</b>
Preferred stock dividend	9	—	—	N.M.	N.M.
<b>Net earnings applicable to common shareholders</b>	<b>\$ 1,608</b>	<b>\$ 865</b>	<b>\$ 879</b>	<b>86</b>	<b>83</b>
<b>Earnings per common share</b>					
Basic	\$ 3.40	\$ 1.78	\$ 1.80	91	89
Diluted	3.25	1.71	1.74	90	87
<b>Average common shares outstanding</b>					
Basic	473.3	485.4	489.2	(2)	(3)

Diluted	<b>494.2</b>	506.2	505.0	(2)	(2)
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**Selected Data**

Employees at period end <sup>(7)</sup> <sup>(8)</sup>	<b>22,032</b>	20,888	20,347	5	8
Ratio of compensation and benefits to net revenues	<b>50.0%</b>	50.0%	50.0% <sup>(3)</sup>		

**THE GOLDMAN SACHS GROUP, INC. AND SUBSIDIARIES**  
**CONSOLIDATED STATEMENTS OF EARNINGS**  
**(UNAUDITED)**

*In millions, except per share amounts*

	<b>Nine Months Ended</b>		<b>% Change From</b>
	<b>Aug. 26, 2005</b>	<b>Aug. 27, 2004</b>	<b>Aug. 27, 2004</b>
<b>Revenues</b>			
Investment banking	\$ 2,667	\$ 2,536	5%
Trading and principal investments	11,545	9,652	20
Asset management and securities services	2,270	2,036	11
Interest income	14,764	8,160	81
<b>Total revenues</b>	<b>31,246</b>	<b>22,384</b>	<b>40</b>
Interest expense	12,411	6,067	105
Cost of power generation <sup>(6)</sup>	339	348	(3)
<b>Revenues, net of interest expense and cost of power generation</b>	<b>18,496</b>	<b>15,969</b>	<b>16</b>
<b>Operating expenses</b>			
Compensation and benefits <sup>(3)</sup>	9,248	8,035	15
Brokerage, clearing and exchange fees	797	713	12
Market development	268	214	25
Communications and technology	365	343	6
Depreciation and amortization	371	373	(1)
Amortization of identifiable intangible assets	93	94	(1)
Occupancy	534	483	11
Professional fees	322	237	36
Other expenses	704	515	37
<b>Total non-compensation expenses</b>	<b>3,454</b>	<b>2,972</b>	<b>16</b>
<b>Total operating expenses</b>	<b>12,702</b>	<b>11,007</b>	<b>15</b>
Pre-tax earnings	5,794	4,962	17
Provision for taxes	1,800	1,603	12
<b>Net earnings</b>	<b>3,994</b>	<b>3,359</b>	<b>19</b>
Preferred stock dividend	9	—	N.M.
<b>Net earnings applicable to common shareholders</b>	<b>\$ 3,985</b>	<b>\$ 3,359</b>	<b>19</b>
<b>Earnings per common share</b>			
Basic	\$ 8.23	\$ 6.86	20
Diluted	7.89	6.56	20
<b>Average common shares outstanding</b>			
Basic	484.3	489.7	(1)

Diluted 505.2 511.8 (1)

**Selected Data**

Ratio of compensation and benefits to net revenues 50.0% 50.0% <sup>(3)</sup>

**NON-COMPENSATION EXPENSES**  
(UNAUDITED)  
*\$ in millions*

	Three Months Ended			% Change From	
	Aug. 26, 2005	May 27, 2005	Aug. 27, 2004	May 27, 2005	Aug. 27, 2004
Non-compensation expenses of consolidated investments <sup>(4)</sup>	\$ 100	\$ 49	\$ 6	104%	N.M.%
Non-compensation expenses excluding consolidated investments					
Brokerage, clearing and exchange fees	271	274	228	(1)	19
Market development	86	90	76	(4)	13
Communications and technology	122	123	111	(1)	10
Depreciation and amortization	114	124	117	(8)	(3)
Amortization of identifiable intangible assets	31	31	31	—	—
Occupancy	186	174	157	7	18
Professional fees	114	108	91	6	25
Other expenses	214	186	151	15	42
Subtotal	1,138	1,110	962	3	18
Total non-compensation expenses, as reported	<u>\$ 1,238</u>	<u>\$ 1,159</u>	<u>\$ 968</u>	<u>7</u>	<u>28</u>

	Nine Months Ended		% Change From
	Aug. 26, 2005	Aug. 27, 2004	Aug. 27, 2004
Non-compensation expenses of consolidated investments <sup>(4)</sup>	\$ 164	\$ 14	N.M.%
Non-compensation expenses excluding consolidated investments			
Brokerage, clearing and exchange fees	797	713	12
Market development	258	214	21
Communications and technology	363	343	6
Depreciation and amortization	354	373	(5)
Amortization of identifiable intangible assets	93	94	(1)
Occupancy	508	483	5
Professional fees	318	237	34
Other expenses	599	501	20
Subtotal	3,290	2,958	11
Total non-compensation expenses, as reported	<u>\$ 3,454</u>	<u>\$ 2,972</u>	<u>16</u>

**THE GOLDMAN SACHS GROUP, INC. AND SUBSIDIARIES**  
**SELECTED FINANCIAL DATA**  
**(UNAUDITED)**

**Average Daily VaR <sup>(9)</sup>**  
*\$ in millions*

	<b>Three Months Ended</b>		
	<b>Aug. 26, 2005</b>	<b>May 27, 2005</b>	<b>Aug. 27, 2004</b>
<b>Risk Categories</b>			
Interest rates	\$ 38	\$ 33	\$ 39
Equity prices	40	26	31
Currency rates	19	19	20
Commodity prices	25	24	23
Diversification effect <sup>(10)</sup>	<u>(46)</u>	<u>(42)</u>	<u>(43)</u>
<b>Total</b>	<b><u>\$ 76</u></b>	<b><u>\$ 60</u></b>	<b><u>\$ 70</u></b>

**Assets Under Management <sup>(11)</sup>**  
*\$ in billions*

	<b>As of</b>			<b>% Change From</b>	
	<b>Aug. 31, 2005</b>	<b>May 31, 2005</b>	<b>Aug. 31, 2004</b>	<b>May 31, 2005</b>	<b>Aug. 31, 2004</b>
Money markets	\$ 98	\$ 98	\$ 95	—%	3%
Fixed income and currency	161	153	130	5	24
Equity	150	135	113	11	33
Alternative investments	<u>111</u>	<u>104</u>	<u>88</u>	<u>7</u>	<u>26</u>
<b>Total</b>	<b><u>\$ 520</u></b>	<b><u>\$ 490</u></b>	<b><u>\$ 426</u></b>	<b><u>6</u></b>	<b><u>22</u></b>

	<b>Three Months Ended</b>		
	<b>Aug. 31, 2005</b>	<b>May 31, 2005</b>	<b>Aug. 31, 2004</b>
Balance, beginning of period	\$ 490	\$ 482	\$ 415
Net asset inflows / (outflows)			
Money markets	—	(1)	3
Fixed income and currency	6	6	3
Equity	6	2	—
Alternative investments	<u>6</u>	<u>3</u>	<u>4</u>
<b>Total net asset inflows / (outflows)</b>	<b>18</b>	<b>10</b>	<b>10</b>
Net market appreciation / (depreciation)	<u>12</u>	<u>(2)</u>	<u>1</u>
<b>Balance, end of period</b>	<b><u>\$ 520</u></b>	<b><u>\$ 490</u></b>	<b><u>\$ 426</u></b>

**Principal Investments**  
*\$ in millions*

**As of August 26, 2005**

	<u>Corporate</u>	<u>Real Estate</u>	<u>Total</u>
Private	\$ 1,506	\$ 772	\$ 2,278
Public	<u>322</u>	<u>31</u>	<u>353</u>
Subtotal	1,828	803	2,631
SMFG convertible preferred stock <sup>(12)</sup>	<u>3,256</u>	<u>—</u>	<u>3,256</u>
Total	<u>\$ 5,084</u>	<u>\$ 803</u>	<u>\$ 5,887</u>



## Footnotes

- (1) Tangible common shareholders' equity equals total shareholders' equity less preferred shareholders' equity less goodwill and identifiable intangible assets. Management believes that annualized return on average tangible common shareholders' equity is a meaningful measure of performance because it excludes the portion of the firm's common shareholders' equity attributable to goodwill and identifiable intangible assets. As a result, this calculation measures corporate performance in a manner that treats underlying businesses consistently, whether they were acquired or developed internally. Annualized return on average tangible common shareholders' equity is computed by dividing annualized net earnings applicable to common shareholders by average monthly tangible common shareholders' equity. Tangible book value per common share is computed by dividing tangible common shareholders' equity by the number of common shares outstanding, including restricted stock units granted to employees with no future service requirements. The following table sets forth a reconciliation of total shareholders' equity to tangible common shareholders' equity:

	Average for the		As of
	Nine Months Ended August 26, 2005	Three Months Ended August 26, 2005	August 26, 2005
	(unaudited, \$ in millions)		
Total shareholders' equity	\$ 26,100	\$ 26,405	\$ 26,607
Deduct: Preferred shareholders' equity	(375)	(750)	(750)
Common shareholders' equity	25,725	25,655	25,857
Deduct: Goodwill and identifiable intangible assets	(5,483)	(5,552)	(5,472)
Tangible common shareholders' equity	<u>\$ 20,242</u>	<u>\$ 20,103</u>	<u>\$ 20,385</u>

- (2) Thomson Financial-January 1, 2005 through September 16, 2005.
- (3) Compensation and benefits includes the amortization of employee initial public offering and acquisition awards of \$5 million for each of the three month periods ended August 26, 2005, May 27, 2005 and August 27, 2004, and \$16 million and \$51 million for the nine months ended August 2005 and August 2004, respectively. For the three months and nine months ended August 27, 2004, the ratio of compensation and benefits to net revenues, including the amortization of employee initial public offering and acquisition awards, was 50.1% and 50.3%, respectively.
- (4) Consolidated entities held for investment purposes includes entities that are held strictly for capital appreciation, have a defined exit strategy and are engaged in activities which are not closely related to the firm's principal businesses. For example, these investments include consolidated entities that hold real estate assets such as golf courses and hotels in Asia, but exclude investments in entities which primarily hold financial assets. Management believes that it is meaningful to review non-compensation expenses excluding expenses related to these consolidated entities in order to evaluate trends in non-compensation expenses for the firm's principal business activities.
- (5) Long-term debt includes nonrecourse debt of \$13.97 billion, consisting of \$5.11 billion issued by William Street Funding Corporation (a wholly owned subsidiary of The Goldman Sachs Group, Inc. formed to raise funding to support loan commitments made by another wholly owned William Street entity to investment-grade clients) and \$8.86 billion issued by consolidated variable interest entities and other consolidated entities. Nonrecourse debt is debt that The Goldman Sachs Group, Inc. is not directly or indirectly obligated to repay through a guarantee, general partnership interest or contractual arrangement.
- (6) Cost of power generation includes all of the direct costs of the firm's consolidated power plant operations (e.g., fuel, operations and maintenance) as well as the depreciation and amortization associated with the plants and related contractual assets. Power generation revenues are included in "Trading and principal investments."
- (7) Excludes 1,377, 1,130 and 1,152 employees as of August 2005, May 2005 and August 2004, respectively, of Goldman Sachs' consolidated property management and loan servicing subsidiaries. Compensation and benefits includes \$45 million, \$41 million and \$35 million for the three months ended August 26, 2005, May 27, 2005 and August 27, 2004, respectively, attributable to these subsidiaries, the majority of which is reimbursed to Goldman Sachs by the investment funds for which these companies manage properties and perform loan servicing. Such reimbursements are recorded in net revenues.
- (8) Excludes 7,094, 6,626 and 298 employees as of August 2005, May 2005 and August 2004, respectively, of consolidated entities that are

held for investment purposes only. Compensation and benefits includes \$50 million, \$17 million and \$2 million for the three months ended August 26, 2005, May 27, 2005 and August 27, 2004, respectively, attributable to these consolidated entities.

- (9) VaR is the potential loss in value of Goldman Sachs' trading positions due to adverse market movements over a one-day time horizon with a 95% confidence level. The modeling of the risk characteristics of the firm's trading positions involves a number of assumptions and approximations. While management believes that these assumptions and approximations are reasonable, there is no uniform industry methodology for estimating VaR, and different assumptions and/or approximations could produce materially different VaR estimates. For a further discussion of the calculation of VaR, see Part II, Item 7A "Quantitative and Qualitative Disclosures about Market Risk" in the firm's Annual Report on Form 10-K for the fiscal year ended November 26, 2004.
- (10) Equals the difference between total VaR and the sum of the VaRs for the four risk categories. This effect arises because the four market risk categories are not perfectly correlated.
- (11) Substantially all assets under management are valued as of calendar month end.
- (12) Excludes an economic hedge on the unrestricted shares of common stock underlying the investment. As of August 26, 2005, the fair value of this hedge was \$1.08 billion. Includes the impact of foreign exchange revaluation on the investment, for which the firm also maintains an economic hedge.