# GOLDMAN SACHS EXECUTION & CLEARING, L.P. and SUBSIDIARIES

## CONSOLIDATED STATEMENT OF FINANCIAL CONDITION
## PURSUANT to RULE 17a-5 of the
## SECURITIES and EXCHANGE COMMISSION

**As of December 31, 2009**

**30 HUDSON STREET**
**JERSEY CITY, NJ 07302**

PRICEWATERHOUSECOOPERS

**PricewaterhouseCoopers LLP**
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**Report of Independent Auditors**

To the Partners of
Goldman Sachs Execution & Clearing, L.P.:

In our opinion, the accompanying consolidated statement of financial condition presents fairly, in all material respects, the financial position of Goldman Sachs Execution & Clearing, L.P. and its subsidiaries (the "Company") at December 31, 2009 in conformity with accounting principles generally accepted in the United States of America. This financial statement is the responsibility of the Company's management. Our responsibility is to express an opinion on this financial statement based on our audit. We conducted our audit of this statement in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statement is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, and evaluating the overall statement of financial condition presentation. We believe that our audit of the statement of financial condition provides a reasonable basis for our opinion.

PricewaterhouseCoopers LLP

February 26, 2010

**GOLDMAN SACHS EXECUTION & CLEARING, L.P. and SUBSIDIARIES**

**CONSOLIDATED STATEMENT OF FINANCIAL CONDITION**

**As of December 31, 2009**
**(in thousands)**

| | | |
|---|---|---|
| **Assets** | | |
| Cash and cash equivalents | $ | 47,432 |
| Cash and securities segregated for regulatory and other purposes (includes $4,404,913 at fair value) | | 4,453,146 |
| Collateralized agreements: | | |
| Securities borrowed | | 10,387,935 |
| Financial instruments purchased under agreements to resell, at fair value | | 1,125,370 |
| Receivables from brokers, dealers and clearing organizations | | 749,926 |
| Receivables from customers and counterparties | | 4,173,065 |
| Financial instruments owned, at fair value | | 27,303 |
| Financial instruments owned and pledged as collateral, at fair value | | 16,494 |
| Total financial instruments owned, at fair value | | 43,797 |
| Other assets | | 220,390 |
| Total assets | $ | 21,201,061 |
| **Liabilities and Partners' Capital** | | |
| Unsecured short-term borrowings | $ | 2,203 |
| Secured short-term borrowings | | 35,000 |
| Short-term borrowings | | 37,203 |
| Collateralized financings: | | |
| Securities loaned | | 5,199,896 |
| Financial instruments sold under agreements to repurchase, at fair value | | 523,282 |
| Payables to brokers, dealers and clearing organizations | | 128,327 |
| Payables to customers and counterparties | | 12,158,093 |
| Financial instruments sold, but not yet purchased, at fair value | | 16,702 |
| Other liabilities and accrued expenses | | 422,693 |
| Total liabilities | | 18,486,196 |
| **Commitments, contingencies and guarantees** | | |
| Subordinated borrowings | | 1,680,000 |
| **Partners' capital** | | 1,034,865 |
| Total liabilities and partners' capital | $ | 21,201,061 |

The accompanying notes are an integral part of
this consolidated statement of financial condition.

## Note 1. Description of Business

Goldman Sachs Execution & Clearing, L.P. (GSEC), a limited partnership, is a registered U.S. broker-dealer with the SEC, a member of FINRA and a registered futures commission merchant with the CFTC. GSEC, together with its consolidated subsidiaries (collectively, the Company), is a wholly owned subsidiary of SLK LLC, a limited liability company. SLK LLC is owned by Goldman Sachs Trade Management LLC, which is a wholly owned subsidiary of The Goldman Sachs Group, Inc. (“Group Inc”), a Delaware Corporation. The Federal Reserve Board is the primary U.S. regulator of Group Inc., a bank holding company that in August 2009 also became a financial holding company under the U.S. Gramm-Leach-Bliley Act of 1999.

The Company provides a wide range of brokerage and investment services to a substantial and diversified client base. The Company’s activities primarily consist of:

- **Trading and Principal Investments.** The Company engages in floor-based and electronic market making as a Designated Market Maker (“DMM”) on U.S. equities exchanges. These products consist of equity securities and options.

- **Commissions and Clearance.** The Company facilitates and finances transactions with a diverse group of corporations, financial institutions, governments, hedge funds and individuals. It executes and clears customer transactions on major stock, options and futures exchanges worldwide.

## Note 2. Significant Accounting Policies

### *Basis of Presentation*

This consolidated statement of financial condition includes the accounts of GSEC and all other entities in which the Company has a controlling financial interest. All material intercompany transactions and balances have been eliminated.

The Company determines whether it has a controlling financial interest in an entity by first evaluating whether the entity is a voting interest entity or a variable interest entity (VIE) under generally accepted accounting principles (GAAP).

- **Voting Interest Entities.** Voting interest entities are entities in which (i) the total equity investment at risk is sufficient to enable the entity to finance its activities independently and (ii) the equity holders have the obligation to absorb losses, the right to receive residual returns and the right to make decisions about the entities’ activities. The usual condition for a controlling financial interest in a voting interest entity is ownership of a majority voting interest. Accordingly, the Company consolidates voting interest entities in which it has a majority voting interest.

- **Variable Interest Entities.** VIEs are entities that lack one or more of the characteristics of a voting interest entity. A controlling financial interest in a VIE is present when an enterprise has a variable interest, or a combination of variable interests, that will absorb a majority of the VIE’s expected losses, receive a majority of the VIE’s expected residual returns, or both. The enterprise with a controlling financial interest, known as the primary beneficiary, consolidates the VIE. The Company determines whether it is the primary beneficiary of a VIE by first performing a qualitative analysis of the VIE’s expected losses and expected residual returns. This analysis includes a review of, among other factors, the VIE’s capital structure, contractual terms, which interests create or absorb variability, related party relationships and the design of the VIE. Where qualitative analysis is not conclusive, the Company performs a quantitative analysis. For purposes of allocating a VIE’s expected losses and expected residual returns to its variable interest holders, the Company utilizes the “top down” method.

Under this method, the Company calculates its share of the VIE's expected losses and expected residual returns using the specific cash flows that would be allocated to it, based on contractual arrangements and/or the Company's position in the capital structure of the VIE, under various probability-weighted scenarios. The Company reassesses its initial evaluation of an entity as a VIE and its initial determination of whether the Company is the primary beneficiary of a VIE upon the occurrence of certain reconsideration events. See "— Recent Accounting Developments" below for information regarding amendments to accounting for VIEs.

- **Other.** If the Company does not consolidate an entity, the Company accounts for its investment at fair value.

In connection with becoming a bank holding company, Group Inc. was required to change its fiscal year-end from November to December. In April 2009, the Board of Directors of Group Inc. approved a change in Group Inc.'s fiscal year-end from the last Friday of December to December 31. As a result, the Company also changed to a calendar year-end. This change in the Company's fiscal year-end resulted in a 13 month period that began on November 29, 2008 and ended on December 31, 2009.

Unless specifically stated otherwise, all references to 2009 refer to the Company's 13 month fiscal period ended, or the date, as the context requires, December 31, 2009.

**Use of Estimates**

This consolidated statement of financial condition has been prepared in accordance with generally accepted accounting principles that require management to make certain estimates and assumptions. The most important of these estimates and assumptions relate to fair value measurements, the accounting for identifiable intangible assets and the provision for potential losses that may arise from litigation and regulatory proceedings and tax audits. Although these and other estimates and assumptions are based on the best available information, actual results could be materially different from these estimates.

**Financial Instruments.** "Total financial instruments owned, at fair value" and "Financial instruments sold, but not yet purchased, at fair value" are reflected in the consolidated statement of financial condition at fair value.

**Other Financial Assets and Financial Liabilities at Fair Value.** In addition to "Total financial instruments owned, at fair value" and "Financial instruments sold, but not yet purchased, at fair value," the Company has elected to account for certain of its other financial assets and financial liabilities at fair value under ASC 825-10 (i.e., the fair value option).

Such financial assets and financial liabilities accounted for at fair value include resale and repurchase agreements.

**Fair Value Measurements.** The fair value of a financial instrument is the amount that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date (i.e., the exit price). Financial assets are marked to bid prices, and financial instruments liabilities are marked to offer prices. Fair value measurements do not include transaction costs.

The fair value hierarchy under ASC 820 prioritizes the inputs to valuation techniques used to measure fair value. The hierarchy gives the highest priority to unadjusted quoted prices in active markets for identical assets or liabilities (level 1 measurements) and the lowest priority to unobservable inputs (level 3 measurements). The three levels of the fair value hierarchy are described below:

Basis of Fair Value Measurement

| | |
|---|---|
| Level 1 | Unadjusted quoted prices in active markets that are accessible at the measurement date for identical, unrestricted assets or liabilities; |
| Level 2 | Quoted prices in markets that are not considered to be active or financial instruments for which all significant inputs are observable, either directly or indirectly; |
| Level 3 | Prices or valuations that require inputs that are both significant to the fair value measurement and unobservable. |

A financial instrument's level within the fair value hierarchy is based on the lowest level of any input that is significant to the fair value measurement.

The Company defines active markets for equity instruments based on the average daily trading volume both in absolute terms and relative to the market capitalization for the instrument. The Company defines active markets for debt instruments based on both the average daily trading volume and the number of days with trading activity.

In determining fair value, the Company categorizes "Total financial instruments owned, at fair value" and "Financial instruments sold, but not yet purchased, at fair value" as cash instruments.

- **Cash Instruments.** The Company's cash instruments are generally classified within level 1 of the fair value hierarchy because they are valued using quoted market prices, broker or dealer quotations, or alternative pricing sources with reasonable levels of price transparency. The types of instruments valued based on quoted market prices in active markets include most U.S. government and agency securities, active listed equities and certain money market securities. Such instruments are generally classified within level 1 of the fair value hierarchy.
  Instruments classified within level 1 of the fair value hierarchy are required to be carried at quoted market prices, even in situations where the Company holds a large position and a sale could reasonably impact the quoted price.

When appropriate, valuations are adjusted for various factors such as liquidity, bid/offer spreads and credit considerations. Such adjustments are generally based on market evidence where available. In the absence of such evidence, management's best estimate is used.

**Collateralized Agreements and Financings.** Collateralized agreements consist of resale agreements and securities borrowed. Collateralized financings consist of repurchase agreements and securities loaned. Collateralized agreements and financings are presented on a net-by-counterparty basis when a right of setoff exists.

- **Resale and Repurchase Agreements.** Financial instruments purchased under agreements to resell and financial instruments sold under agreements to repurchase, principally U.S. government and federal agency obligations, represent collateralized financing transactions. The Company receives financial instruments purchased under agreements to resell, makes delivery of financial instruments sold under agreements to repurchase, monitors the market value of these securities on a daily basis and delivers or obtains additional collateral as appropriate. As noted above, resale and repurchase agreements are carried in the consolidated statement of financial condition at fair value under the fair value option. Resale and repurchase agreements are generally valued based on inputs with reasonable levels of price transparency and are generally classified within level 2 of the fair value hierarchy. The Company enters its financial instruments purchased under agreements to resell and financial instruments sold under agreements to repurchase transactions substantially with Goldman Sachs & Co. ("GSCO").

- **Securities Borrowed and Loaned.** Securities borrowed and loaned are generally collateralized by cash, securities or letters of credit. The Company receives securities borrowed, makes delivery of securities loaned, monitors the market value of securities borrowed and loaned, and delivers or obtains additional collateral as appropriate. Securities borrowed and loaned within Securities Services, relating to both customer activities and, to a lesser extent, certain Company financing activities, are recorded based on the amount of cash collateral advanced or received plus accrued interest. As these arrangements generally can be terminated on demand, they exhibit little, if any, sensitivity to changes in interest rates. The Company conducts its securities borrowed and loaned transactions substantially with GSCO and Goldman Sachs International ("GSI").

**Transfers of Financial Assets**. In general, transfers of financial assets are accounted for as sales when the Company has relinquished control over the transferred assets. See "— Recent Accounting Developments" below for information regarding amendments to accounting for transfers of financial assets.

***Share-Based Compensation***

The Company participates in the share-based compensation plans of Group Inc. The cost of employee services received in exchange for a share-based award is generally measured based on the grant-date fair value of the award in accordance with ASC 718.

***Identifiable Intangible Assets***

Identifiable intangible assets, which consist of New York Stock Exchange (NYSE) DMM rights, are amortized over their estimated lives. Identifiable intangible assets are tested for impairment whenever events or changes in circumstances suggest that an asset's or asset group's carrying value may not be fully recoverable. An impairment loss, generally calculated as the difference between the estimated fair value and the carrying value of an asset or asset group, is recognized if the sum of the estimated undiscounted cash flows relating to the asset or asset group is less than the corresponding carrying value.

***Property, Leasehold Improvements and Equipment***

Property, leasehold improvements and equipment, net of accumulated depreciation and amortization, are recorded at cost and included in “Other assets” in the consolidated statement of financial condition.

Substantially all property and equipment are depreciated on a straight-line basis over the useful life of the asset. Leasehold improvements are amortized on a straight-line basis over the useful life of the improvement or the term of the lease, whichever is shorter. Certain costs of software developed or obtained for internal use are capitalized and amortized on a straight-line basis over the useful life of the software.

Property, leasehold improvements and equipment are tested for impairment whenever events or changes in circumstances suggest that an asset’s or asset group’s carrying value may not be fully recoverable. An impairment loss, calculated as the difference between the estimated fair value and the carrying value of an asset or asset group, is recognized if the sum of the expected undiscounted cash flows relating to the asset or asset group is less than the corresponding carrying value.
The Company records a liability, based on the fair value of the remaining lease rentals reduced by any potential or existing sublease rentals, for leases where the Company has ceased using the space and management has concluded that the Company will not derive any future economic benefits. Costs to terminate a lease before the end of its term are recognized and measured at fair value upon termination.

***Foreign Currency Translation***

Assets and liabilities denominated in non-U.S. currencies are translated at rates of exchange prevailing on the date of the consolidated statement of financial condition.

***Income Taxes***

Income taxes are provided for using the asset and liability method. Deferred tax assets and liabilities are recognized for temporary differences between the financial reporting and tax bases of the Company’s assets and liabilities. Valuation allowances are established to reduce deferred tax assets to the amount that more likely than not will be realized. The Company’s tax assets and liabilities are presented as a component of “Other assets” and “Other liabilities and accrued expenses,” respectively, in the consolidated statement of financial condition. The Company recognizes tax positions in the statement of financial condition only when it is more likely than not that the position will be sustained upon examination by the relevant taxing authority based on the technical merits of the position. A position that meets this standard is measured at the largest amount of benefit that will more likely than not be realized upon settlement. A liability is established for differences between positions taken in a tax return and amounts recognized in the statement of financial condition.

***Cash and Cash Equivalents***

The Company defines cash equivalents as highly liquid overnight deposits held in the ordinary course of business.

***Recent Accounting Developments***

**FASB Accounting Standards Codification.** In July 2009, the FASB launched the FASB Accounting Standards Codification (the Codification) as the single source of GAAP. While the Codification did not change GAAP, it introduced a new structure to the accounting literature and changed references to accounting standards and other authoritative accounting guidance. The Codification was effective for the Company for 2009 and did not have an effect on the Company’s financial condition.

**Accounting for Transfers of Financial Assets and Repurchase Financing Transactions (ASC 860).** In February 2008, the FASB issued amended accounting principles related to transfers of financial assets and repurchase financing transactions. These amended principles require an initial transfer of a financial asset and a repurchase financing that was entered into contemporaneously or in contemplation of the initial transfer to be evaluated as a linked transaction (for purposes of determining whether a sale has occurred) unless certain criteria are met, including that the transferred asset must be readily obtainable in the marketplace. The Company adopted these amended accounting principles for new transactions entered into after November 2008. Adoption did not have a material effect on the Company's financial condition.

**Determining Fair Value When the Volume and Level of Activity for the Asset or Liability Have Significantly Decreased and Identifying Transactions That Are Not Orderly (ASC 820).** In April 2009, the FASB issued amended accounting principles related to determining fair value when the volume and level of activity for the asset or liability have significantly decreased and identifying transactions that are not orderly. Specifically, these amended principles list factors which should be evaluated to determine whether a transaction is orderly, clarify that adjustments to transactions or quoted prices may be necessary when the volume and level of activity for an asset or liability have decreased significantly, and provide guidance for determining the concurrent weighting of the transaction price relative to fair value indications from other valuation techniques when estimating fair value. The Company adopted these amended accounting principles in 2009. Since the Company's fair value methodologies were consistent with these amended accounting principles, adoption did not affect the Company's financial condition.

**Interim Disclosures about Fair Value of Financial Instruments (ASC 825).** In April 2009, the FASB issued amended principles related to interim disclosures about fair value of financial instruments. The Company adopted these amended principles in 2009. Adoption did not affect the Company's financial condition.

**Subsequent Events (ASC 855).** In May 2009, the FASB issued amended accounting principles related to subsequent events, which codify the guidance regarding the disclosure of events occurring subsequent to the balance sheet date. These amended principles do not change the definition of a subsequent event (i.e., an event or transaction that occurs after the balance sheet date but before the statement of financial condition is issued) but require disclosure of the date through which subsequent events were evaluated when determining whether adjustment to or disclosure in the statement of financial condition is required. These amended principles were effective for the Company for 2009. For the period ended 2009, the Company evaluated subsequent events through February 26, 2010. Since these amended principles require only additional disclosures concerning subsequent events, adoption of the standard did not affect the Company's financial condition.

**Transfers of Financial Assets and Interests in Variable Interest Entities (ASC 860 and 810).** In June 2009, the FASB issued amended accounting principles which change the accounting for VIEs. These principles were codified as Accounting Standards Update (ASU) No. 2009-16, "Transfers and Servicing (Topic 860) – Accounting for Transfers of Financial Assets" and ASU No. 2009-17, "Consolidations (Topic 810) - Improvements to Financial Reporting by Enterprises Involved with Variable Interest Entities" in December 2009. ASU No. 2009-16 changes the requirements for derecognizing financial assets, and requires additional disclosures about transfers of financial assets, including securitization transactions and continuing involvement with transferred financial assets. ASU No. 2009-17 changes the determination of when a VIE should be consolidated. Under ASU No. 2009-17, the determination of whether to consolidate a VIE is based on the power to direct the activities of the VIE that most significantly impact the VIE's economic performance together with either the obligation to absorb losses or the right to receive benefits that could be significant to the VIE, as well as the VIE's purpose and design. ASU No. 2009-16 and 2009-17 are effective for fiscal years beginning after November 15, 2009.

In February 2010, the FASB issued ASU No. 2010-10, which defers the requirements of ASU No. 2009-17 for certain interests in investment funds and certain similar entities. Adoption of ASU Nos. 2009-16 and 2009-17 on January 1, 2010 did not have a material effect on the Company's financial condition. However, continued application of these principles requires the Company to make judgments that are subject to change based on new facts and circumstances, and evolving interpretations and practices.

**Fair Value Measurements and Disclosures – Measuring Liabilities at Fair Value (ASC 820).** In August 2009, the FASB issued ASU No. 2009-05, "Fair Value Measurements and Disclosures (Topic 820) – Measuring Liabilities at Fair Value." ASU No. 2009-05 provides guidance in measuring liabilities when a quoted price in an active market for an identical liability is not available and clarifies that a reporting entity should not make an adjustment to fair value for a restriction that prevents the transfer of the liability. The Company adopted ASU No. 2009-05 in 2009. Since the Company's fair value methodologies were consistent with ASU No. 2009-5, adoption did not affect the Company's financial condition.

**Improving Disclosures about Fair Value Measurements (ASC 820).** In January 2010, the FASB issued ASU No. 2010-06, "Fair Value Measurements and Disclosures (Topic 820) - Improving Disclosures about Fair Value Measurements." ASU No. 2010-06 provides amended disclosure requirements related to fair value measurements. ASU No. 2010-06 is effective for statement of financial condition issued for reporting periods beginning after December 15, 2009 for certain disclosures and for reporting periods beginning after December 15, 2010 for other disclosures. Since these amended principles require only additional disclosures concerning fair value measurements, adoption will not affect the Company's financial condition.

## Note 3. Financial Instruments

### *Fair Value of Financial Assets*

Cash and securities segregated for regulatory and other purposes included in the Company's statement of financial condition consist of money market instruments and resale agreements. The underlying securities of these resale agreements have been segregated to satisfy certain regulatory requirements.
As of December 2009, the Company has $1.1 billion of assets in level 1 and $3.3 billion of level 2 assets, respectively.

### *Fair Value of Financial Instruments*

The following table sets forth the Company's financial instruments owned, at fair value, including those pledged as collateral, and financial instruments sold, but not yet purchased, at fair value (in thousands):

| | As of December 2009 | |
|---|---|---|
| | **Assets** | **Liabilities** |
| Money market instruments | $ 12,550 | $ - |
| Equities and convertible debentures | 31,247 | 16,702 |
| Total | $ 43,797 | $ 16,702 |

Assets and liabilities are classified in their entirety based on the lowest level of input that is significant to the fair value measurement. Due to the Company's business lines of trading as a DMM and market maker of listed securities on U.S. equities exchanges, all of GSEC's financial instruments owned and sold, but not yet purchased, at fair value are Level 1 securities.

***Credit Concentrations***

Credit concentrations may arise from trading and securities borrowing activities and may be impacted by changes in economic, industry or political factors. The Company's financial instruments purchased under agreements to resell were collateralized by U.S. government and federal agency obligations. As of December 2009, the Company did not have credit exposure to any counterparty that exceeded 3% of the Company’s total assets.

***Derivative Activities***

Derivative contracts are instruments, such as futures, forwards, swaps or option contracts that derive their value from underlying assets, indices, reference rates or a combination of these factors. Derivative instruments may be privately negotiated contracts, which are often referred to as OTC derivatives, or they may be listed and traded on an exchange. Derivatives may involve future commitments to purchase or sell financial instruments or commodities, or to exchange currency or interest payment streams. The amounts exchanged are based on the specific terms of the contract with reference to specified rates, securities, commodities, currencies or indices. The Company does not trade or carry any OTC derivatives but enters into derivative transactions to facilitate client transactions.

**Collateralized Transactions**

The Company receives financial instruments as collateral, primarily in connection with resale agreements, securities borrowed, derivative transactions and customer margin loans. Such financial instruments may include obligations of the U.S. government, federal agencies and corporations, as well as equities. The resale agreements and securities borrowed related transactions are primarily conducted with GSCO.

In many cases, the Company is permitted to deliver or repledge these financial instruments in connection with entering into repurchase agreements, securities lending agreements and other secured financings, collateralizing derivative transactions and meeting Company or customer settlement requirements. As of December 2009, the fair value of financial instruments received as collateral by the Company that it was permitted to deliver or repledge was $24.2 billion, of which the Company delivered or repledged $24.2 billion.

The Company also pledges assets that it owns to counterparties who may or may not have the right to deliver or repledge them. Total financial instruments owned pledged to counterparties that have the right to deliver or repledge are included in “Total financial instruments owned, at fair value” in the consolidated statement of financial condition and was $16.5 million as of December 2009. Total financial instruments owned pledged in connection with repurchase agreements, securities lending agreements and other secured financing to counterparties that did not have the right to sell or repledge are included in “Total financial instruments owned, at fair value” in the consolidated statement of financial condition and was $0.2 million as of December 2009.

## Note 4. Variable Interest Entity (VIE)

The Company has a VIE investment. The entity, Just Options LLC was formed to provide option trading and clearing facilities for traders and market makers who became members of Just Options LLC. The Company provided a majority of capital to fund the entity. Based on the revenue sharing agreement and the capital investment, the Company continues to be the primary beneficiary of the VIE and accordingly the Company consolidates this entity.

## Note 5. Short-Term Borrowings

The Company obtains unsecured short-term borrowings primarily from Group Inc. at floating rates of interest, which are based on prevailing market rates. As of December 2009, these borrowings were $2.2 million. The Company has a third party line of credit for $1.5 billion. This is a secured facility with the Company pledging collateral to the third party. At December 31, 2009 the Company has $35 million outstanding on this loan. The carrying value of these short-term obligations approximates fair value due to their short-term nature.

## Note 6. Subordinated Borrowings

Subordinated borrowings are obtained from Group Inc. As of December 2009, outstanding subordinated borrowings, which matures in October 2010, bear interest at floating rates and total approximately $1.7 billion. The borrowing agreement contains an automatic rollover provision, whereby the maturity date will be extended an additional year, provided the borrower does not give notice of repayment on or before the day seven months preceding the then in effect maturity date. Amounts borrowed under this subordinated loan agreement bear interest at a rate of LIBOR plus .75% per annum. The carrying value of these borrowings approximates fair value due to the floating rates. The subordinated borrowings are available in computing net capital under the SEC's uniform net capital rule. To the extent that such borrowings are required for the Company's continued compliance with minimum net capital requirements, they may not be repaid.

## Note 7. Commitments, Contingencies and Guarantees

***Commitments***

**Letters of Credit.** The Company provides letters of credit issued by various banks to counterparties in lieu of securities or cash to satisfy various collateral and margin deposit requirements. As of December 2009, the Company did not have any letters of credit outstanding.

**Leases.** The Company has contractual obligations under long-term noncancelable lease agreements, principally for office space, expiring on various dates through 2012. Certain agreements are subject to periodic escalation provisions for increases in real estate taxes and other charges. Future minimum rental payments, net of minimum sublease rentals, are set forth below (in thousands):

| | As of December 2009 |
|---|---|
| 2010 | $ 7,196 |
| 2011 | 2,876 |
| 2012 | 918 |
| Total | $ 10,990 |

***Contingencies***

The Company is involved in a number of judicial, regulatory and arbitration proceedings concerning matters arising in connection with the conduct of its businesses. Management believes, based on currently available information, that the results of such proceedings, in the aggregate, will not have a material adverse effect on the Company's financial condition.

***Guarantees***

The Company enters into various derivative contracts that meet the definition of a guarantee under ASC 460. In the ordinary course of its business, the Company indemnifies and guarantees certain service providers, such as clearing and custody agents, trustees and administrators, against specified potential losses in connection with their acting as an agent of, or providing services to, the Company or its affiliates. The Company also indemnifies some clients against potential losses incurred in the event specified third-party service providers, including sub-custodians and third-party brokers, improperly execute transactions. In addition, the Company is a member of payment, clearing and settlement networks as well as securities exchanges around the world that may require the Company to meet the obligations of such networks and exchanges in the event of member defaults. In connection with its prime brokerage and clearing businesses, the Company agrees to clear and settle on behalf of its clients the transactions entered into by them with other brokerage firms. The Company’s obligations in respect of such transactions are secured by the assets in the client’s account as well as any proceeds received from the transactions cleared and settled by the Company on behalf of the client. The Company is unable to develop an estimate of the maximum payout under these guarantees and indemnifications, however, management believes that it is unlikely the Company will have to make any material payments under these arrangements and has not recorded any contingent liability in the consolidated statement of financial condition for these indemnifications for the period ended December 2009.

## Note 8. Identifiable Intangible Assets

The following table sets forth the gross carrying amount, accumulated amortization and net carrying amount of identifiable intangible assets, which is included in “Other Assets” in the consolidated statement of financial condition (in thousands):

| | | As of December 2009 |
|---|---|---|
| **NYSE DMM rights** | Gross carrying amount | $ 319,564 |
| | Accumulated amortization | (154,637) |
| | Net carrying amount | $ 164,927 |

All of the Company’s identifiable intangible assets are considered to have finite lives and are amortized over their estimated lives. The weighted average remaining life of the Company’s identifiable intangibles is approximately 11 years.

## Note 9. Other Assets and Other Liabilities

### *Other Assets*

Other assets are generally less liquid, nonfinancial assets. The following table sets forth the Company's other assets by type (in thousands):

| | As of December 2009 |
|---|---|
| Property, leasehold improvements and equipment | $ 2,437 |
| Identifiable intangible assets | 164,927 |
| Income tax-related assets | 15,496 |
| Exchange memberships | 18,276 |
| Miscellaneous receivables and other | 19,254 |
| Total | $ 220,390 |

### *Other Liabilities*

Other liabilities and accrued expenses primarily include compensation and benefits, litigation liabilities, tax-related payables, deferred revenue and other payables. The following table sets forth the Company's other liabilities and accrued expenses by type (in thousands):

| | As of December 2009 |
|---|---|
| Compensation and benefits | $ 82,793 |
| Income tax-related liabilities | 150,628 |
| Accrued expenses and other payables | 189,272 |
| Total | $ 422,693 |

## Note 10. Employee Benefit Plans

The Company's employees participate in various Group Inc. sponsored pension plans and certain other postretirement benefit plans, primarily healthcare and life insurance. Certain benefits are also provided to former or inactive employees prior to retirement.

### *Defined Benefit Pension Plans and Postretirement Plans*

Group Inc. maintains a defined benefit pension plan for substantially all U.S. employees hired prior to November 1, 2003. As of November 2004, this plan was closed to new participants and frozen such that existing participants would not accrue any additional benefits. In addition, the Company maintains unfunded postretirement benefit plans that provide medical and life insurance for eligible retirees and their dependents covered under these programs.

On November 30, 2007, Group Inc. adopted amended principles related to employers' accounting for defined benefit pension and other postretirement plans which require an entity to recognize in its statement of financial condition the funded status of its defined benefit pension and postretirement plans, measured as the difference between the fair value of the plan assets and the benefit obligation.

***Defined Contribution Plans***

The Company contributes to a Group Inc. employer-sponsored U.S. defined contribution plan. The Company's contribution to this plan was $3.6 million for the period ended December 2009.

## Note 11. Employee Incentive Plans

***Stock Incentive Plan***

Group Inc. sponsors a stock incentive plan, The Goldman Sachs Amended and Restated Stock Incentive Plan (SIP), which provides for grants of incentive stock options, nonqualified stock options, stock appreciation rights, dividend equivalent rights, restricted stock, restricted stock units (RSUs), awards with performance conditions and other shared-based awards. In the second quarter of 2003, the SIP was approved by Group Inc's shareholders, effective for grants after April 1, 2003 and was further amended and restated, effective December 31, 2008.

***Restricted Stock Units***

Group Inc. issues RSUs to employees of the Company under the SIP, primarily in connection with year-end compensation and acquisitions. RSUs are valued based on the closing price of the underlying shares on the date of grant after taking into account a liquidity discount for any applicable post-vesting transfer restrictions. Year-end RSUs generally vest and deliver as outlined in the applicable RSU agreements. All employee RSU agreements provide that vesting is accelerated in certain circumstances, such as upon retirement, death and extended absence. The subsequent amortization of the cost of these restricted stock units is allocated to the Company by Group Inc. In all cases, delivery of the underlying shares of common stock is conditioned on the grantees satisfying certain vesting and other requirements outlined in the award agreements.

***Stock Options***

Stock options granted by Group Inc. to employees of the Company generally vest as outlined in the applicable stock option agreement. Year-end options granted in December 2008 will become exercisable in one third installments in January 2010, January 2011 and January 2012. Shares received on exercise cannot be sold, transferred or otherwise disposed of until January 2014. Year-end 2008 options will expire on December 31, 2018. Year-end options granted in December 2007 will become exercisable in January 2011 and expire on November 24, 2017. Shares received on exercise of year-end 2007 options cannot be sold, transferred or otherwise disposed of until January 2013. All employee stock option agreements provide that vesting is accelerated in certain circumstances, such as upon retirement, death and extended absence. In general, all stock options expire on the tenth anniversary of the grant date, although they may be subject to earlier termination or cancellation under certain circumstances in accordance with the terms of the SIP and the applicable stock option agreement.

**Note 12. Related Party Transactions**

The Company enters into transactions with Group Inc. and affiliates in the normal course of business as part of its trading, financing and general operations. Amounts outstanding to/from Group Inc. and affiliates are reflected in the consolidated statement of financial condition as set forth below (in thousands):

| | | |
|---|---|---|
| **Assets** | | |
| Cash and securities segregated for regulatory and other purposes | $ | 3,346,313 |
| Collateralized agreements: | | |
| Securities borrowed | | 10,387,935 |
| Financial instruments purchased under agreements to resell, at fair value | | 1,125,370 |
| Receivables from brokers, dealers and clearing organizations | | 406,961 |
| Other assets | | 97 |
| **Liabilities** | | |
| Unsecured short-term borrowings | $ | 2,203 |
| Collateralized financings: | | |
| Securities loaned | | 5,199,896 |
| Financial instruments sold under agreements to repurchase, at fair value | | 523,282 |
| Payables to brokers, dealers and clearing organizations | | 8,933 |
| Other liabilities and accrued expenses | | 181,223 |
| Subordinated borrowings | | 1,680,000 |

***Note 13. Income Taxes***

The Company is taxed as a corporation for U.S. federal income tax purposes. As a corporation for tax purposes, the Company is subject to U.S. federal and various state and local income taxes on its earnings. The Company also continues to be subject to taxes in foreign jurisdictions on certain of its operations. The Company is included with Group Inc. and subsidiaries in the consolidated corporate tax return as well as the consolidated/combined state and local tax returns. The Company computes its tax liability as if it was filing a tax return on a modified separate company basis and will settle such liability with Group Inc. pursuant to the tax sharing agreement. To the extent the Company generates tax benefits from losses; it will be reimbursed by Group Inc. pursuant to the tax sharing agreement.

As of December 31, 2009, the Company did not record a liability related to accounting for uncertainty in income taxes. All years subsequent to and including 2005 for U.S. Federal and 2004 for New York State and City remain open to examination by the taxing authorities.

Deferred income taxes reflect the net tax effects of temporary differences between the financial reporting and tax bases of assets and liabilities. These temporary differences result in taxable or deductible amounts in future years and are measured using the tax rates and laws that will be in effect when such differences are expected to reverse.

Significant components of the Company's deferred tax assets and liabilities are set forth below:

| | | |
|---|---|---|
| Deferred tax assets | | |
| Compensation and benefits | $ | 12,253 |
| Other, net | | 7,508 |
| Total deferred tax assets | $ | 19,761 |
| | | |
| Deferred tax liabilities | | |
| Depreciation and amortization | $ | 4,284 |
| Total deferred tax liabilities | $ | 4,284 |

No valuation allowance was required and there was no change in the valuation allowance during the period.

**Note 14. Net Capital Requirement**

GSEC is a registered U.S. broker-dealer and futures commission merchant subject to Rule 15c3-1 of the SEC and Rule 1.17 of the Commodity Futures Trading Commission, which specify uniform minimum net capital requirements, as defined, for their registrants. GSEC has elected to compute net capital in accordance with the "Alternate Net Capital Requirement" as permitted by Rule 15c3-1. As of December 2009, GSEC had regulatory net capital, as defined, of $1.97 billion of which $1.86 billion exceeded the minimum net capital requirement of $110.6 million.

A subsidiary of GSEC is subject to Rule 15c3-1, which was in compliance as of December 2009. This subsidiary of GSEC is also subject to additional regulatory requirements of exchanges of which it is a member. As of December 2009, these requirements were greater than the minimum requirements under Rule 15c3-1. As of December 2009, this entity was in compliance with their respective exchange requirements. GSEC's net capital includes a reduction for the capital invested in each subsidiary to satisfy any applicable requirements.

As of December 2009, GSEC made a computation related to the reserve requirement for Proprietary Accounts of Introducing Brokers ("PAIB"). The reserve amount and value of securities held on deposit in the Reserve Bank account was $259.4 million.