# I ~~Apologize to David Viniar and Goldman's Lawyers and~~ Call for More Regulation of Goldman Sachs

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By Janet Tavakoli (See: "I Retract My Apology and Call for More Regulation of Goldman Sachs")

~~I apologize to Goldman Sachs' CFO David Viniar~~. He did not technically lie when he said that Goldman's direct credit exposure with AIG was hedged in the event AIG collapsed. He only addressed direct AIG credit risk, and even then may have missed a spot or two.[1] On September 16, 2008, he may merely have been unimaginative about risk to Goldman as a result of AIG's potential bankruptcy partly brought on by stress created by billions in collateral payments already made—and the billions in additional collateral owed—to Goldman Sachs (and other CDS counterparties). Systemic risk is a matter of public interest. Viniar apparently did not intentionally give the impression that Goldman was disinterested when it came to AIG's bailout.

[***Afternote:*** Goldman's exposure *was not*, as Viniar stated in September 2008, "immaterial "whatever the outcome at AIG." Given Goldman's key role in AIG's distress, a reasonable liquidator of AIG may have clawed back most of the $7.5 billion in collateral Viniar claimed as a "hedge." If AIG had gone bankrupt, the underlying CDOs would likely have plummeted further in value—as has happened in past similar market upsets—and his "hedges," even if they remained whole would not have covered the loss. In fact, after the fall of 2008, the CDOs continued to rapidly lose USD billions in value. Secondary market values as of December 2009 for similar CDO product are bid at single digit pennies on the dollar in a supposedly more stable market. (See also: "Goldman Fueled AIG's Gambles," *Wall Street Journal* December 12, 2009).

The settlement of AIG's contracts for 100 cents on the dollar in November 2008 was a give-away. In late July 2008, SCA settled with Merrill for $500 million on $3.7 B of contracts, or around 13.5%. On August 1, 2008, Ambac settled $1.4 B with Citi for $850 million, or around 60% on the dollar, but unlike SCA and AIG, Ambac wasn't on the brink of insolvency at the time. $13.9 billion of Goldman's contracts with AIG were settled for 100 cents on the dollar in November 2008 via purchases by Maiden Lane III. Ambac recently settled similar credit default swaps for only ten cents on the dollar, and MBIA has made similar discounted settlements.]

I apologize to Goldman's lawyers, too, since the Goldman spokesman who called me mentioned them at the start of our conversation.

Goldman's spokesman said that Goldman bought protection from AIG on underlying super senior CDO risk. I pointed out that if the underlying super senior CDO were backed by BBB-rated assets like those of GSAMP Trust 2006-S3, it would be worth zero. The underlying so-called super senior CDO appeared very risky instead of "super safe," since Goldman extracted billions from AIG before and after the bailout. Trades like these contributed to systemic risk posed by AIG's shaky situation. The spokesman initially claimed Goldman could not have been aware of AIG's other positions, until I pointed out that my own early concerns about AIG were based on information available to Goldman.

As for the separate issue of Goldman's mortgage securitizations, when I expressed my view that securitization professionals knew or should have known that deals like GSAMP Trust 2006-S3 were overrated and overpriced, Goldman's spokesman claimed it was a "minority" opinion, and that the "majority" had a different opinion of the risk at the time. But I maintain the risks were discoverable in the course of competent due diligence, and "disclosures" did not include the fact that ratings were misleading and did not reflect the risk.

As for my opinion, it has been proven correct. It is in the public interest not to rely on Goldman's opinion, if it counts itself with what it calls the "majority."

Goldman needs competent regulation and more of it. Among other things, Goldman's credit derivatives should be cleared on the exchanges. Citadel's CEO Kenneth Griffin commented recently in the *Financial Times* that Lehman's collapse caused little disruption in the exchange traded markets. But unregulated credit default swaps and non-cleared interest rate swaps "triggered chaos in the market." I join Mr. Griffin in saying "regulators must implement central clearing and put the integrity of the capital markets ahead of the profits of a self-interested few."

1 On September 16, 2008, Viniar did not mention the amount of Goldman's gross exposure, or the amount of collateral it had already been paid by AIG, nor did he mention the dollar amount of collateral Goldman had received from hedge counterparties for credit default swaps on AIG. Goldman's spokesman said the hedge was perhaps (Goldman's spokesman was unable to confirm—the numbers weren't to hand—if Goldman was covered for the full notional amount) fully cash collateralized by billions in payments from Goldman's other hedge counterparties. In my Nov 2 commentary, I acknowledged that Goldman was apparently overhedged for an AIG collapse. Apparently David Viniar did not consider a scenario (or considered it very remote) where AIG and the Fed might settle with Goldman for a partial payment, and Goldman's counterparties might wage a dispute for a return of their collateral. He also may not have imagined a scenario where U.S. taxpayers might be entitled to a claw back bailout payments made to Goldman.

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