

in shares of the Non-Affiliated Underlying Fund. The board of directors or trustees of the Non-Affiliated Underlying Fund will consider, among other things, (a) whether the purchases were consistent with the investment objectives and policies of the Non-Affiliated Underlying Fund; (b) how the performance of securities purchased in an Affiliated Underwriting compares to the performance of comparable securities purchased during a comparable period of time in underwritings other than Affiliated Underwritings or to a benchmark such as a comparable market index; and (c) whether the amount of securities purchased by the Non-Affiliated Underlying Fund in Affiliated Underwritings and the amount purchased directly from Underwriting Affiliates (other than a GS Group entity) have changed significantly from prior years. The board of directors or trustees of the Non-Affiliated Underlying Fund shall take any appropriate actions based on its review, including, if appropriate, the institution of procedures designed to assure that purchases of securities from Affiliated Underwritings are in the best interests of shareholders.

7. A Non-Affiliated Underlying Fund shall maintain and preserve permanently in an easily accessible place a written copy of the procedures described in the preceding condition, and any modifications, and shall maintain and preserve for a period of not less than six years from the end of the fiscal year in which any purchase from an Affiliated Underwriting occurred, the first two years in an easily accessible place, a written record of each purchase made once an investment by the Fund of Funds in the securities of a Non-Affiliated Underlying Fund exceeded the limits of section 12(d)(1)(A)(i) of the Act, setting forth from whom the securities were acquired, the identity of the underwriting syndicate's members, the terms of the purchase, and the information or materials upon which the board's determinations were made.

8. Prior to an investment in shares of a Non-Affiliated Underlying Fund in excess of the limit in section 12(d)(1)(A)(i), the Fund of Funds and the Non-Affiliated Underlying Fund will execute an agreement stating, without limitation, that the board of directors or trustees of the Non-Affiliated Underlying Fund and the investment adviser to the Non-Affiliated Underlying Fund understand the terms and conditions of the order and agree to fulfill their responsibilities under the order. At the time of its investment in shares of a Non-Affiliated Underlying

Fund in excess of the limit in section 12(d)(1)(A)(i), the Fund of Funds will notify the Non-Affiliated Underlying Fund of the investment. At such time, the Fund of Funds also will transmit to the Non-Affiliated Underlying Fund a list of the names of each Fund of Funds Affiliate and Underwriting Affiliate. The Fund of Funds will notify the Non-Affiliated Underlying Fund of any changes to the list as soon as reasonably practicable after a change occurs. The Non-Affiliated Underlying Fund and the Fund of Funds will maintain and preserve a copy of the order, the agreement, and the list with any updated information for a period of not less than six years from the end of the fiscal year in which any investment occurred, the first two years in an easily accessible place.

9. Prior to approving any investment advisory or management contract under section 15 of the Act, the Board of the Fund of Funds, including a majority of the Disinterested Trustees, will find that the advisory or management fees charged under the contract are based on services provided that are in addition to, rather than duplicative of, the services provided to Underlying Funds in which the Fund of Funds will invest. This finding, and the basis upon which the finding was made, will be recorded fully in the minute books of the Fund of Funds.

10. Any sales charges and/or service fees (as those terms are defined in rule 2830 of the Conduct Rules of the NASD) charged with respect to shares of the Fund of Funds will not exceed the limits applicable to a fund of funds as set forth in rule 2830 of the Conduct Rules of the NASD.

11. No Underlying Fund will acquire securities of any other investment company in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent that such Underlying Fund (a) receives securities of another investment company as a dividend or as a result of a plan of reorganization of a company (other than a plan devised for the purpose of evading section 12(d)(1) of the Act); or (b) acquires (or is deemed to have acquired) securities of another investment company pursuant to exemptive relief from the Commission permitting such Underlying Fund to (i) acquire securities of one or more affiliated investment companies for short-term cash management purposes, or (ii) engage in interfund borrowing and lending transactions.

12. The Adviser will waive fees otherwise payable to the Adviser by the Fund of Funds in an amount at least equal to any compensation (including

fees received pursuant to a plan adopted by a Non-Affiliated Underlying Fund pursuant to rule 12b-1 under the Act) received by the Adviser, or an affiliated person of the Adviser, from a Non-Affiliated Underlying Fund in connection with the investment by the Fund of Funds in the Non-Affiliated Underlying Fund.

13. The nature of the services provided by Goldman Sachs to and the relationship with Goldman Sachs of any Fund of Funds relying on the requested order will be consistent with the representations made in the Benchmark Order. Goldman Sachs will not be an affiliated person or a second-tier affiliate of any investment adviser to any registered investment company relying on the requested order. Goldman Sachs and its affiliated persons will have no influence or control over the investments made by any registered investment company relying on the requested order. No affiliated person of Goldman Sachs will serve as a director of any registered investment company relying on the requested order.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**J. Lynn Taylor,**

*Assistant Secretary.*

[FR Doc. 03-10629 Filed 4-29-03; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting

**FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT:** [To be announced].

**STATUS:** Open meeting/closed meeting.

**PLACE:** 450 Fifth Street, NW., Room 6600, Washington, DC.

**DATE AND TIME OF PREVIOUSLY ANNOUNCED MEETING:** Wednesday, April 30, 2003 at 10 a.m., Thursday, May 1, 2003 at 10 a.m.

**CHANGE IN THE MEETING:** Time changes.

The Open Meeting schedule for Wednesday, April 30, 2003 at 10 a.m. has been changed to Wednesday, April 30, 2003 at 9:30 a.m.

The Closed Meeting scheduled for Thursday, May 1, 2003 at 10 a.m. has been changed to Thursday, May 1, 2003 at 3 p.m.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 942-7070.

Dated: April 28, 2003.

**Jonathan G. Katz,**  
Secretary.

[FR Doc. 03-10780 Filed 4-28-03; 2:18 pm]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. PA-33; File No. S7-09-03]

### Privacy Act of 1974: Establishment of a New System of Records: Emergency Contingency Plan System (SEC-51)

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Notice of the establishment of a new system of records.

**SUMMARY:** In accordance with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a, the Securities and Exchange Commission ("SEC" or "Commission") gives notice of a proposed new system of records entitled Emergency Contingency Plan System (SEC-51).

**DATES:** Information may be collected for the new system of records beginning on April 30, 2003. Comments on the proposed routine uses of the information must be received by May 30, 2003, and the routine uses will take effect June 9, 2003, unless the Commission receives comments that would require a different determination.

**ADDRESSES:** Please send three copies of your comments to Jonathan G. Katz, Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549-0609. You may also send your comments electronically to the following electronic address: [rule-comments@sec.gov](mailto:rule-comments@sec.gov). All comments should refer to File No. S7-09-03 and, if sent electronically, should include this file number on the subject line. Comment letters will be available for public inspection and copying at our Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. If sent electronically, comment letters will also be available on our Web site (<http://www.sec.gov>).

**FOR FURTHER INFORMATION CONTACT:** Dana Schlichtmann, Office of the Executive Director, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549-1101, (202) 942-4305.

**SUPPLEMENTARY INFORMATION:** The Commission gives notice of a new system of records, which is subject to the Privacy Act. The proposed system of records will maintain specified contact information on current members and employees of the Commission who may be contacted in emergency

circumstances. The new system of records report, as required by 5 U.S.C. 552a(r) of the Privacy Act, has been submitted to the Committee on Government Reform of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget, pursuant to Appendix I to OMB Circular A-130, Federal Agency Responsibilities for Maintaining Records About Individuals, as amended on February 20, 1996 (61 FR 6435).

Accordingly, the Commission is adding the following system of records.

#### SEC-51

##### SYSTEM NAME:

Emergency Contingency Plan System.

##### SYSTEM LOCATION:

SEC, 450 Fifth Street, NW., Washington, DC 20549.

##### CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members and employees of the Commission.

##### CATEGORIES OF RECORDS IN THE SYSTEM:

Name; job title; organizational code number; work and home addresses; work and personal electronic mail addresses; work, home, and cellular telephone numbers; pager numbers.

##### AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Executive Order 12656 (Nov. 18, 1988), Assignment of Emergency Preparedness Responsibilities.

##### PURPOSE(S):

The purpose of this system of records is to maintain emergency contact information for current members and employees of the Commission for use in developing and maintaining emergency contingency operations plans, such as a formal continuity of operations (COOP) plan, for the Commission. This data will be used for alert and notification purposes, determining team and task assignments, developing and maintaining an emergency contact system for general emergency preparedness programs and specific situations. COOP activities involve ensuring the continuity of minimum essential agency functions through plans and procedures governing succession to office and the emergency delegation of authority (where permissible). Other emergency contingency plans include plans for Commission-wide response to threat alerts issued by the Department of Homeland Security (DHS).

#### ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to the conditions of disclosure under 5 U.S.C. 552a(b), Commission staff may provide these records to any Federal government authority for the purpose of coordinating and reviewing agency continuity of operations plans or emergency contingency plans developed for responding to Department of Homeland Security threat alerts.

#### POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

##### STORAGE:

These records are maintained on paper and in electronic format.

##### RETRIEVABILITY:

These records are retrievable by individual's names, or by the categories listed above under "Categories of Records in the System."

##### SAFEGUARDS:

Access to the records is restricted to those who require the records in the performance of official duties related to the purposes for which the system is maintained.

##### RETENTION AND DISPOSAL:

Periodic purging and disposal of those records concerning individuals no longer members or employees of the Commission. Otherwise, records are retained and disposed of in accordance with the appropriate National Archives and Records Administration General Records Schedules.

##### SYSTEM MANAGER(S) AND ADDRESS:

Executive Director, Office of the Executive Director, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-1101.

##### NOTIFICATION PROCEDURE:

Requests to determine whether this system of records contains a record pertaining to the requesting individual should be sent to the Privacy Act Officer, SEC, Operations Center, 6432 General Green Way, Alexandria, VA 22312-2413.

##### RECORDS ACCESS PROCEDURES:

Persons wishing to access or contest these records should write the Privacy Act Officer, SEC, Operations Center, 6432 General Green Way, Alexandria, VA 22312-2413.

##### CONTESTING RECORD PROCEDURES:

See Records Access Procedures, above.