

## **LITIGATION UPDATE: ACA Financial Guaranty Suit against Goldman Sachs for Fraud Survives Motion to Dismiss**

*ACA website ([www.aca.com](http://www.aca.com)), New York – April 26, 2012.* In January 2011, ACA Financial Guaranty Corp. (ACA) filed suit against Goldman Sachs & Co. for fraud and other causes of action in connection with a collateralized debt obligation (CDO) transaction known as ABACUS. Goldman Sachs has settled a civil action brought by the Securities & Exchange Commission (SEC) in respect of the same transaction for \$550 million. On April 23, 2012, the Supreme Court of the State of New York denied Goldman's motion to dismiss the suit in respect of ACA's fraud claims.

ACA's complaint alleged that ACA sold credit protection in connection with the ABACUS deal based on significant fraudulent representations made by Goldman Sachs. In denying the motion to dismiss the fraud claim, the court found that ACA had sufficiently alleged all the elements of fraud including misrepresentation of a material fact, falsity of the representation, scienter, ACA's justifiable reliance on the alleged misrepresentation, injury resulting from the reliance and a duty to disclose material information. Justice Barbara R. Kapnick noted that Goldman has already acknowledged its mistake in failing to disclose Paulson's role in the transaction, including that Paulson's interests were adverse to ACA's.

A copy of the decision is available [here](#).