STATE STREET.

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Via e-mail: rule-comments@sec.gov

Secretary
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-1090

Re: File No. S7-16-08

Dear Sir or Madam:

State Street Corporation ("State Street") appreciates the opportunity to comment on the proposal by the Securities and Exchange Commission ("the Commission") to amend Rule 15a-6, which provides, under certain conditions, exemptions from registration under Section 15(b) of the Exchange Act for foreign broker-dealers servicing U.S. institutional investors.

State Street specializes in providing institutional investors with investment servicing, investment management and investment research and trading. With $15.3 trillion in assets under custody and $1.9 trillion in assets under management as of June 30, 2008, State Street operates in 26 countries and more than 100 markets worldwide.

State Street, through State Street Global Markets ("SSGM"), specializes in investment research and trading in foreign exchange, equities, fixed income and derivatives on behalf of institutional investors. SSGM has registered broker-dealers in the U.S., Canada, the United Kingdom and Japan.

State Street's almost exclusively institutional investor clients are among the most active international investors, and are, to a large extent, the driving force behind the need to update U.S. rules related to access to foreign markets. State Street appreciates the Commission's efforts to improve such access, both through efforts such as the current rulemaking, and broader efforts to reach mutual recognition agreements with regulators outside the U.S.

While the current Rule 15a-6 has been successful in providing significantly increased access to foreign markets for U.S. institutional investors since it was finalized in 1989, we believe the existing rule is outdated and imposes restrictions and costs inappropriate for today's global marketplace.

We strongly support the Commission's efforts to update Rule 15a-6, but believe the utility and practicality of the proposal could be improved in several areas, as described below.

Foreign Business Test

We urge the Commission to reconsider the proposed "foreign business" test, which, as proposed, will significantly reduce the potential benefit of the Commission's Rule 15a-6 modernization.

Under the Commission's proposals, foreign broker-dealers are provided two exemption options, referred to as Exemption (A)(1) and Exemption (A)(2). Exemption (A)(1), available only to foreign broker-dealers conducting a "foreign business," provides significant regulatory relief from U.S. broker-dealer intermediation requirements, while Exemption (A)(2), available to all foreign broker-dealers, continues to require extensive U.S. registered broker-dealer intermediation. The benefits of the proposal to both U.S. institutional investors and foreign broker-dealers (and their U.S. affiliates) are significantly greater under Exemption (A)(1).

We understand the Commission's interest in preventing regulatory arbitrage, and its concern that its jurisdiction over markets for U.S. securities be preserved, and do not, in principle, disagree that a foreign broker-dealer seeking to solicit U.S. investors should be required to demonstrate that its services relate to a "foreign business."

However, the proposed "foreign business" test's reliance upon the valuation of securities traded by the foreign broker-dealer is unnecessarily complex and burdensome, and raises numerous questions about how to value a wide range of securities, particularly non-equities. Establishing systems to comply with the proposed "foreign business" test would be a significant undertaking, and would greatly reduce the value of the benefits provided by the balance of the Commission's proposed Exemption (A)(1).

A simpler, less burdensome "foreign business" test would be sufficient to address the Commission's concerns over regulatory arbitrage. For example, the Commission could require an annual certification by the foreign broker-dealer indicating that:

1) the foreign broker-dealer does not hold itself out as a market maker for any U.S.-listed security, and
2) the gross revenues derived by the foreign broker-dealer from transactions in U.S.-listed cash equities for qualified investors does not constitute a significant portion of gross revenues derived from transactions by all investors in all cash equities.

Such a "foreign business" test would provide the Commission certainty that foreign broker-dealers were not using Exemption (A)(1) to avoid U.S. regulation of a U.S. securities business, while providing foreign broker-dealers seeking to solicit U.S. institutional investors a reasonable "foreign business" test based on data that broker-dealers already collect.

State Street believes that modifying the proposed "foreign business" test is the most critical change needed to the Commission's proposal.

Research Reports

We agree with the Commission's statement that "the direct distribution of research to qualified investors would be consistent with the free flow of information across national boundaries without raising substantial investor protection concerns."

Accordingly, we support the Commission's proposal to broaden the existing exemption from registration as a broker-dealer under Section 15(b) of the Exchange Act for foreign broker-dealers that provide research to certain U.S. investors. We agree that the existing rule has worked well, but that a broader class of institutional investors, at a lower asset level, would have the skills and experience to adequately assess the competency and financial stability of the foreign broker-dealer. We support the Commission's proposal to expand the current exemption to all "qualified investors."

In addition to expanding the class of permitted recipients of research from foreign broker-dealers, we suggest the Commission reconsider the application of other U.S. research rules to this research. We believe the application of these U.S. rules to certain types of foreign research unnecessarily hinders the free flow of information the Commission is seeking to encourage, with no concomitant increase in investor protection.

In particular, Regulation AC imposes specific certification requirements on research produced by foreign broker-dealers that is made available directly to U.S. investors in compliance with Rule 15a-6. These requirements only apply, however, when a broker-dealer is an affiliate of a U.S. broker-dealer. State Street does not believe this distinction enhances investor protection, particularly when the research is made available solely to qualified investors and when the Commission has already proposed a "foreign business" test designed to protect against regulatory arbitrage by broker-dealers generally.

In addition, Regulation AC and the self regulatory organizations' ("SROs") research rules impose considerable disclosure burdens on U.S. registered broker-dealers seeking to distribute foreign research produced by associated foreign broker-dealers to qualified investors in a purely "conduit" capacity. Again, State Street does not believe these requirements provide any significant investor protections, provided appropriate disclosure is made regarding the source of the research and the affiliations, if any, with the foreign broker-dealer. This disconnect is particularly pronounced in cases where a U.S. qualified investor may have a relationship with a foreign broker-dealer under proposed Exemption (A)(1), and where execution of transactions is exempted form U.S. securities laws, but research disclosure rules still apply.

We urge the Commission to include provisions in the final rule that clearly exempt from Regulation AC all research reports distributed by foreign broker-dealers to qualified investors and that clarify that Regulation AC and the SRO research rules would not apply with respect to a U.S. registered broker-dealer distributing research to qualified investors solely in a "conduit" capacity, regardless of whether the foreign broker-dealer is affiliated with the U.S. registered broker-dealer.

Major U.S. Institutional Investors

As noted above, State Street supports the Commission's proposal to align the threshold for solicitable investors under Rule 15a-6 with the current definition of "qualified investor," rather

than the current threshold of "major U.S. institutional investor." We agree that the proposed Rule 15a-6 regime provides an appropriate and well-calibrated level of protection for investors with over $25 million in investable assets.

In addition, however, we recommend the Commission create an additional category of "Counterparties and Specific Customers" under Rule 15a-6(a)(4) for investors meeting the Commission's current definition of "major U.S. institutional investor," or, as an alternative, the Commission's definition of "qualified institutional buyer." This new classification under Rule 15a-6(a)(4) would allow foreign broker-dealers to deal directly with the most sophisticated U.S. institutional investors in the same manner as they are currently permitted to deal other highly sophisticated investors or counterparties defined under the existing rule, without the need for unnecessary U.S. broker-dealer intermediation.

Should the Commission agree to provide this new exemption, we also suggest it clarify that broker-dealers need not include transactions executed under this new category in calculations related to the "foreign business test" required under proposed Rule 15a-6(a)(3).

Conclusion

Once again, we appreciate having the opportunity to comment on this important proposal. State Street strongly supports the Commission's effort to update Rule 15a-6, and urges the Commission to adopt the proposal, with the changes described above, as soon as practicable.

Sincerely,

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Head of Regulatory and Industry Affairs