

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 2435 / September 23, 2005

ADMINISTRATIVE PROCEEDING
File No. 3-12056

In the Matter of	:	
	:	
STATE STREET RESEARCH	:	ORDER INSTITUTING ADMINISTRATIVE
& MANAGEMENT	:	AND CEASE-AND-DESIST PROCEEDINGS,
COMPANY,	:	MAKING FINDINGS, AND IMPOSING
	:	REMEDIAL SANCTIONS AND A CEASE-AND-
Respondent.	:	DESIST ORDER PURSUANT TO SECTIONS
	:	203(e) AND 203(k) OF THE INVESTMENT
	:	ADVISERS ACT OF 1940

I.

The Securities and Exchange Commission ("Commission") deems it appropriate and in the public interest that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Sections 203(e) and 203(k) of the Investment Advisers Act of 1940 ("Advisers Act") against State Street Research & Management Company ("SSRM" or "Respondent").

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement, which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission's jurisdiction over it and the subject matter of these proceedings, Respondent consents to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings, Making Findings and Imposing Remedial Sanctions and a Cease-and-Desist Order Pursuant to Sections 203(e) and 203(k) of the Investment Advisers Act of 1940 ("Order"), as set forth below.

III.

FACTS

On the basis of this Order and Respondent's Offer of Settlement, the Commission finds that:

A. Respondent

SSRM (SEC File No. 801-04259) is a Delaware corporation that has been registered with the Commission as an investment adviser since 1983. During the period April 2002 through April 2003, SSRM was the investment adviser to 7 mutual funds registered with the Commission, including the State Street Research International Equity Fund (the "Fund"). SSRM's principal place of business is in Boston, Massachusetts.

B. Summary

1. Beginning April 1, 2002, SSRM adopted a redemption fee for certain transactions in the Fund, for which SSRM served as investment adviser and an affiliate, State Street Research Investment Services, Inc. ("SSRIS"), served as distributor. The purpose of such a redemption fee is to discourage short-term trading in the Fund and to offset certain costs associated with short-term trading. During the period April 2002 through April 2003, SSRM improperly transferred \$156,128 in redemption fees it collected in connection with short-term trading in the Fund to SSRIS instead of paying such fees to the Fund as required by the Fund's prospectus. SSRM transferred the redemption fees to SSRIS because, as SSRM knew or should have known, SSRM utilized a computer system that inaccurately treated the redemption fees as contingent deferred sales charges. By this conduct, SSRM willfully violated Section 206(2) of the Advisers Act.¹ After learning of this conduct during an examination by the Commission's staff, SSRM repaid the Fund the full amount of improperly transferred redemption fees plus additional sums for lost performance and other associated expenses.²

C. Background

2. In April 2002, SSRM adopted a 1% redemption fee for the Fund. In its Statement of Additional Information, the Fund's prospectus stated:

¹ "Willfully" as used in this Order means intentionally committing the act that constitutes the violation. *See Wonsover v. SEC*, 205 F.3d 408, 414 (D.C. Cir. 2000); *Tager v. SEC*, 344 F.2d 5, 8 (2d Cir. 1965). There is no requirement that the actor also be aware that he is violating one of the Rules or Acts.

² Specifically, SSRM paid the Fund \$156,128 for the redemption fees it transferred to SSRIS, \$88,067 for interest/performance, and \$41,548 for expenses, for a total of \$285,743.

Effective April 1, 2002, the Fund may impose a redemption fee of 1.00% of the total redemption amount (calculated at market value) if you sell or exchange your shares after holding them for less than 30 days. The redemption fee is paid directly to the fund, and is not a sales load. The fee is designed to offset brokerage commissions, market impact, and other costs associated with short-term trading. For purposes of determining whether the redemption fee applies, the shares that were held the longest will be redeemed first. The redemption fee will only apply to shares purchased after April 1, 2002. The redemption fee may not apply in certain circumstances, such as redemptions on 401(k) plans, and in the event of a shareholder's death or disability.

3. In its effort to implement the redemption fee, SSRM relied upon an inadequate computer system that was designed to assess contingent deferred sales charges ("CDSC"). That system had limitations that adversely affected SSRM's ability to collect certain redemption fees.

4. In April 2003, another investment adviser registered with the Commission became the investment adviser to the Fund.

D. SSRM Failed to Implement the Redemption Fee Properly and Transferred Collected Redemption Fees to Its Affiliated Distributor

5. Several problems existed with SSRM's implementation of the redemption fee. These problems all arose from SSRM's decision to allow its transfer agent to use its pre-existing CDSC system to impose the redemption fee rather than create a new system or modify existing systems. The CDSC system had limitations that substantially affected SSRM's ability to implement the redemption fee properly. SSRM knew about at least one such limitation.

6. As a result of a different limitation in the CDSC system, SSRM paid the \$156,128 in redemption fees it collected to SSRIS (its affiliated distributor) when the fees should have been retained by the Fund itself. As SSRM representatives knew, the CDSC system was capable of assessing only one "back-end charge" – either a CDSC or a redemption fee. According to SSRM representatives, the CDSC system forewent the collection of the CDSC in favor of the redemption fee. SSRM's transfer agent, however, still coded the fees as CDSC and transferred the money collected to SSRM's distributor rather than retaining the fees in the Fund. Given SSRM's awareness of at least one of the limitations in using the CDSC system to collect redemption fees, SSRM knew or should have known that, contrary to the terms of the Fund's prospectus, the redemption fees were not paid directly to the fund.

7. As a result of the conduct set forth above, Respondent SSRM willfully violated Section 206(2) of the Advisers Act in that it engaged in transactions, practices or courses of business that operated as a fraud or deceit upon any client or prospective client.³

³ A finding of scienter is not required under Section 206(2) of the Advisers Act. *SEC v.*

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions specified in SSRM's Offer of Settlement.

Accordingly, pursuant to Sections 203(e) and 203(k) of the Advisers Act, **it is hereby ORDERED that:**

- A. Respondent SSRM cease and desist from committing or causing any violations and any future violations of Section 206(2) of the Advisers Act;
- B. Respondent SSRM be, and hereby is, censured;
- C. A Fair Fund pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002 is hereby created and the Quant Foreign Value Fund shall be the sole recipient of the Fair Fund distribution;
- D. Respondent SSRM shall pay disgorgement and prejudgment interest in the total amount of \$285,743; provided, however, that Respondent shall be credited in full for its previous payment of that same amount to the Quant Foreign Value Fund;
- E. Respondent SSRM shall, within 10 days of the entry of this Order, pay a civil penalty in the amount of \$300,000. Such civil money penalty shall be paid to the Quant Foreign Value Fund. Payment of such civil penalty shall be: (A) made by United States postal money order, certified check, bank cashier's check, or bank money order; (B) made payable to the Quant Foreign Value Fund; (C) hand-delivered or mailed to the Quant Foreign Value Fund, *[insert address when obtained]*; and (D) submitted under cover letter that identifies SSRM as a Respondent in these proceedings and the file number of these proceedings, a copy of which cover letter and money order or check shall be sent to David P. Bergers, Securities and Exchange Commission, Boston District Office, 73 Tremont Street, 6th Floor, Boston, Massachusetts 02108.

Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondent agrees that it shall not, after offset or reduction in any Related Investor Action based on Respondent's payment of disgorgement in this action, argue that it is entitled to, nor shall it further benefit by offset or reduction of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any

Steadman, 967 F.2d 636, 643 n.5 (D.C. Cir. 1992).

Related Investor Action grants such a Penalty Offset, Respondent agrees that it shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the United States Treasury or to a Fair Fund, as the Commission directs. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Respondent by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

- F. Respondent shall provide to the Commission, within 5 days after the payment of the civil penalty described above, an affidavit that it has paid such civil penalty to the Quant Foreign Value Fund.

By the Commission.

Jonathan G. Katz
Secretary