

NASD
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. E112004017902

TO: Department of Enforcement
NASD

RE: State Street Global Markets, LLC
Member
CRD No. 30107

Pursuant to Rule 9216 of the NASD Code of Procedure, State Street Global Markets, LLC ("SSGM") submits this Letter of Acceptance, Waiver and Consent ("AWC") for the purpose of proposing a settlement of the alleged rule violations described in Part II below. This AWC is submitted on the condition that, if accepted, NASD will not bring any future actions against it alleging violations based on the same factual findings.

SSGM understands that:

1. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by NASD's Department of Enforcement, National Adjudicatory Council ("NAC") Review Subcommittee or Office of Disciplinary Affairs pursuant to NASD Rule 9216;
2. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against it; and
3. If accepted:
 - a. this AWC will become part of its permanent disciplinary record and may be considered in any future actions brought by the NASD or any other regulator against it;
 - b. this AWC will be made available through NASD's public disclosure program in response to public inquiries about its disciplinary record;
 - c. NASD may make a public announcement concerning this agreement and the subject matter thereof in accordance with NASD Rule 8310 and IM-8310-2; and
 - d. SSGM may not take any action or make or permit to be made any public statement, including in regulatory filings or otherwise, denying, directly or indirectly, any allegation in this AWC or create the impression that the AWC is without factual basis. Nothing in this provision affects its testimonial obligations or right to take legal or factual positions in

litigation in which the NASD is not a party.

SSGM also understands that its experience in the securities industry and disciplinary history may be factors that will be considered in deciding whether to accept this AWC. That experience and history are as follows:

SSGM has been an NASD member since June 1992. At all times referenced herein, SSGM's main office was located in Boston, Massachusetts. SSGM is a wholly owned subsidiary of State Street Corporation. Since 2000, SSGM has been disciplined five times by NASD for trade reporting violations:

- In May 2000, NASD accepted an AWC from SSGM for filing late trade reports in violation of NASD Marketplace Rule 6130(b). SSGM was fined \$5,000 as a result of this action.
- In September 2001, NASD accepted an AWC from SSGM for using the incorrect trade modifier in 24 ACT transactions over a four-month period. SSGM was fined \$2,500 as a result of this action.
- In April 2003, NASD accepted an AWC from SSGM for filing late trade reports to ACT and for failing to report 51 last sale reports of eligible securities into ACT. SSGM was fined \$5,000 as a result of this action.
- In June 2004, NASD accepted an AWC from SSGM for filing inaccurate OATS reports and for filing late trade reports to ACT. As a result of this action, SSGM was censured and fined \$20,000 and required to update and enhance its procedures as they related to OATS and ACT trade reporting functions.
- In June 2005, NASD accepted an AWC from SSGM for failing to properly submit OATS trade reports and failing to enforce its written supervisory procedures regarding the review of OATS reports. SSGM was censured and fined \$40,000 as a result of this action.

I.

WAIVER OF PROCEDURAL RIGHTS

SSGM specifically and voluntarily waives the following rights granted under NASD's Code of Procedure:

- A. To have a Formal Complaint issued specifying the allegations against it;
- B. To be notified of the Formal Complaint and have the opportunity to answer the allegations in writing;

- C. To defend against the allegations in a disciplinary hearing before a hearing panel, to have a written record of the hearing made and to have a written decision issued; and
- D. To appeal any such decision to the NAC and then to the U.S. Securities and Exchange Commission and a U.S. Court of Appeals.

Further, SSGM specifically and voluntarily waives any right to claim bias or prejudgment of the General Counsel, the NAC, or any member of the NAC, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including acceptance or rejection of this AWC.

SSGM further specifically and voluntarily waives any right to claim that a person violated the ex parte prohibitions of Rule 9143 or the separation of functions prohibitions of Rule 9144, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including its acceptance or rejection.

II.

ACCEPTANCE AND CONSENT

- A. SSGM hereby accepts and consents, without admitting or denying the allegations or findings, and solely for the purposes of this proceeding and any other proceeding brought by or on behalf of NASD, or to which NASD is a party, prior to a hearing and without an adjudication of any issue of law or fact, to the entry of the following findings by NASD:

1. SUMMARY

During the period July 2003 through December 2004 (the relevant period), SSGM failed to report 14,073, or 89%, of its self-cleared corporate bond transactions to NASD's Trade Reporting and Compliance Engine (TRACE). Moreover, the firm failed to report 380, or 79%, of its self-cleared municipal bond transactions to the Municipal Securities Rulemaking Board (MSRB). The total dollar amount of the unreported corporate and municipal bond transactions exceeded \$5 billion.

The trade reporting violations resulted from the failure of SSGM personnel establishing accounts to check the appropriate box on the firm's electronic trading system so that all TRACE-eligible transactions were automatically and electronically reported to the third party agency retained by SSGM to report the transactions to TRACE. SSGM's written supervisory procedures failed to provide adequate instructions to the personnel establishing accounts. As a result, the TRACE-eligible transactions in 214 accounts established during the relevant time period were not reported. The trade reporting failures were also due in part to the departure of several key operations and fixed income trading employees, who left the firm in connection with a voluntary separation package offered by its parent bank. Thereafter, SSGM lacked adequate institutional knowledge

and internal controls to ensure proper trade reporting. Moreover, the firm failed to provide for effective follow-up and review or otherwise monitor its trade reporting to ensure compliance. For example, SSGM could have utilized available TRACE (as of March 2004) and MSRB trade report data. Had it done so, the firm would likely have detected its trade reporting failures. Consequently, throughout the relevant period, SSGM lacked an adequate supervisory system and written supervisory procedures relating to TRACE and MSRB reporting requirements. As a result of these deficiencies, the firm's TRACE and MSRB reporting failures persisted undetected for nearly 18 months.

In addition, SSGM failed to record necessary information, or noted inaccurate information, on order tickets for corporate bond, municipal bond and equities transactions.

2. TRACE Reporting Violations

TRACE is the NASD-developed system that facilitates the mandatory reporting of over-the-counter secondary market transactions in eligible fixed income securities. NASD began public dissemination of data through TRACE on July 1, 2002, as part of its program to increase transparency in the corporate bond market. TRACE provides investors with previously inaccessible information on the actual sale price of U.S. corporate bonds, affording them a new level of protection. By disseminating accurate and timely trading information, TRACE enhances the integrity of the corporate bond market and creates a level playing field for all investors.

NASD member firms must report transactions in corporate bonds to TRACE. During the relevant period, SSGM executed approximately 15,743 self-cleared corporate bond transactions in TRACE-eligible securities. SSGM, however, failed to report 14,073, or 89%, of those trades. The dollar amount of the unreported corporate bond trades totaled approximately \$4,943,056,830.

Additionally, a review of 40 randomly selected corporate bond transactions that were reported to TRACE during the relevant period revealed that, in 21 instances (53%), SSGM failed to report the required yield information.

Based on the foregoing, SSGM violated NASD Systems and Programs Rule 6230 and NASD Conduct Rule 2110.

3. MSRB Reporting Violations

Timely and accurate reporting of municipal securities transaction data to the MSRB helps ensure a level playing field for all municipal market participants, including dealers, retail investors, and institutional investors. During the relevant time period, MSRB Rule G-14 required all brokers, dealers and municipal securities dealers (collectively "dealers") to report trades to MSRB by midnight of the trade date and the MSRB published data about all reported municipal securities transactions, including, but not limited to, price and volume information, on the day after the trade date. Accurate and timely municipal trade reporting forms the primary audit trail for regulators to conduct surveillance for

potentially manipulative practices, as well as detect sales practice violations and other violations of the federal securities laws and MSRB rules.

Pursuant to MSRB Rule G-27, each dealer engaging in municipal securities transactions is obligated to have a supervisory system and procedures in place reasonably designed to achieve compliance with the federal securities laws and MSRB Rules, including G-14. Ultimate responsibility for transaction reporting rests with the dealer that effected the trade.

During the relevant period, SSGM executed approximately 483 municipal bond transactions that should have been reported to the MSRB. SSGM, however, failed to report 380, or 79%, of its self-cleared municipal bond transactions during the relevant period. The dollar value of the unreported municipal bond trades totaled approximately \$473,077,019.

Based on the foregoing, SSGM violated MSRB Rule G-14.

4. Deficient Supervisory System and Procedures

Throughout the relevant period, SSGM failed to maintain a reasonable and adequate supervisory system and written supervisory procedures relating to TRACE and MSRB reporting requirements. The firm failed to ensure in those areas that its written supervisory procedures were updated, maintained and enforced; and that they were reasonably designed to achieve compliance with the applicable rules and regulations.

The trade reporting violations resulted from the failure of SSGM personnel establishing accounts to check the appropriate box on the firm's electronic trading system so that all TRACE-eligible transactions were automatically and electronically reported to the third party agency retained by SSGM to report the transactions to TRACE. SSGM's written supervisory procedures failed to provide adequate instructions to the personnel establishing accounts. As a result, the TRACE-eligible transactions in 214 accounts established during the relevant time period were not reported. The trade reporting failures were also due in part to the departure of several key operations and fixed income trading employees, who left the firm in connection with a voluntary separation package offered by its parent bank. Thereafter, SSGM lacked adequate institutional knowledge and internal controls to ensure proper trade reporting. Moreover, SSGM failed to provide sufficient training for its remaining staff to ensure that the firm's TRACE and MSRB reporting requirements were met.

The firm also failed to provide for effective follow-up and review or otherwise monitor its trade reporting to ensure compliance. SSGM's written supervisory procedures did not require any of its principals to review and monitor compliance with trade reporting requirements. For example, SSGM could have required its principals to utilize available TRACE (as of March 2004) and MSRB trade report data to verify the adequacy of the firm's reporting. Had it done so, the firm would likely have detected its trade reporting failures. As a result of these deficiencies, the firm's TRACE and MSRB reporting failures

persisted undetected for nearly 18 months.

SSGM bifurcated the responsibility for reporting corporate and municipal bond transactions between the firm's operations and fixed-income trading departments. This division in trade reporting responsibilities contributed to certain failures of communication between the departments, which may have contributed to the trade reporting violations.

NASD Conduct Rule 3010(c) requires member firms to conduct a review, at least annually, of the businesses in which it engages. The review must be reasonably designed to assist in detecting and preventing violations and achieving compliance with applicable securities laws and regulations and NASD rules. Throughout the relevant period, SSGM's internal inspections were not reasonably designed or otherwise adequate to detect, among other things, TRACE and MSRB trade reporting violations. The required inspections were conducted by SSGM parent bank personnel, who were generally not registered as securities professionals. Moreover, the internal inspections were not comprehensive in that they failed to cover all the businesses that SSGM engaged in. An internal audit conducted during the relevant period inspected the 'front office' aspect of the trade reporting function (the trade desk), but did not cover the 'back office' or operations aspect of that function, which is where the TRACE and MSRB trade reporting violations originated.

Based on the foregoing, SSGM violated NASD Conduct Rules 3010 and 2110 and MSRB Rule G-27.

5. Books and Records Violations

A review of 60 randomly selected order tickets for municipal securities transactions during the relevant period revealed that the time of receipt was not recorded in six instances (10%). Based on the foregoing, SSGM violated MSRB Rule G-8.

A review of 40 randomly selected order tickets for corporate bond transactions during the relevant period revealed that 16 (40%) did not have two time stamps as required by Rule 17a-3. A review of 48 randomly selected order tickets for equity transactions revealed that, in 11 instances (23%), the execution times reported on the order tickets did not correspond to the times SSGM reported to TRACE. Based on the foregoing, SSGM violated Section 17(a) of the Securities Exchange Act of 1934, Rule 17a-3 thereunder, and NASD Conduct Rules 3110 and 2110.

B. SSGM also consents to the imposition, at a maximum, of the following sanctions:

SSGM shall be censured and fined \$1,400,000.

In addition, SSGM shall comply with the following undertakings within the time periods specified (unless otherwise extended by NASD staff):

- 1) SSGM shall undertake to review its supervisory system and procedures concerning TRACE and MSRB reporting, and transaction recordkeeping, for compliance with NASD rules and the federal securities laws and regulations. SSGM shall also undertake a review of the resources employed by the firm, assess the adequacy of such resources, and make written recommendations concerning its resource needs in order to comply with the laws, regulations and rules concerning TRACE and MSRB reporting and transaction recordkeeping.
- 2) Within 60 calendar days of the issuance of this AWC, an officer of SSGM will certify to NASD in writing that it has completed its review, implemented necessary revisions to its supervisory system and written procedures, employed adequate staffing and resources, and has established systems and procedures, reasonably designed to achieve compliance with those laws, regulations, and rules concerning TRACE and MSRB reporting and transaction recordkeeping. SSGM's certification shall also describe the specific actions taken by the firm, including the systems and procedures developed and implemented, that are reasonably designed to achieve future compliance with those requirements.
- 3) The certification, along with the updated procedures, must be submitted to NASD's Boston District Office staff. Although NASD staff may review the revised procedures, said review shall in no way constitute an approval of the revised procedures. The failure of NASD staff to alert SSGM to any deficiencies in the revised procedures shall not preclude NASD from instituting a subsequent disciplinary action as a result of deficiencies in the revised procedures.

The sanctions imposed herein shall be effective on a date set by NASD staff.

III.

OTHER MATTERS

- A. SSGM understands that it may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. SSGM further understands that it may not deny the charges or make any statement that is inconsistent with the AWC in this Statement. This Statement does not constitute factual or legal findings by NASD, nor does it reflect the views of NASD or its staff.
- B. SSGM agrees to pay any monetary sanctions imposed on it upon notice that this AWC has been accepted and that such payments are due and payable and has attached an Election of Payment form showing the method by which it proposes to pay any fine imposed.
- C. SSGM specifically and voluntarily waives any right to claim that it is unable to pay, now

or at any time hereafter, any monetary sanction imposed in this matter.

SSGM certifies that it has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it, and that no offer, threat, inducement, or promise of any kind, other than the terms set forth herein, has been made to induce it to submit it.

State Street Global Markets, LLC

11-02-05
Date

By: R. Bryan Woodard
R. Bryan Woodard

Reviewed by Counsel for SSGM:

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Accepted by NASD

11/22/05
Date

Signed on behalf of the Director of ODA,
By delegated authority

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Statement of Corrective Action

State Street Global Markets, LLC ("SSGM") submits the following Statement of Corrective Action taken as a result of the TRACE and MSRB reporting deficiencies referred to in the AWC. This Corrective Action Statement is submitted by the Respondent. It does not constitute factual or legal findings by the NASD, nor does it reflect the views of NASD, or its staff.

SSGM take its obligations to promptly report transactions under the TRACE and MSRB rules very seriously and as detailed below has taken prompt, effective steps to address issues relating to the failure to report all such transactions.

I. TRACE Reporting

With respect to TRACE reporting the firm has take the following corrective actions:

1. Immediately upon recognition of the problem, the firm notified the NASD and did a complete review of its policies and procedures relating to Trace reporting;
2. As a result of the review of its policies and procedures, SSGM revised its written operational procedures to include the specific instructions on how to set up an account on the trade system so that all TRACE eligible transactions are automatically reported to the NASD;
3. SSGM retrained all relevant staff as to the required process, the TRACE reporting requirements, and the importance of ensuring compliance with trade reporting obligations.
4. SSGM revised its written supervisory procedures to require that the principal, or his designee, responsible for TRACE reporting review and signoff on all TRACE-eligible securities transactions effected by SSGM each day and review and signoff on a reconciliation of all TRACE transactions reported by SSGM each day. The daily supervisory review also includes a review of the corrections of transaction reports that are rejected by TRACE.
5. SSGM revised its written supervisory procedures to require that the TRACE Committee, comprising of the CCO (or designee), the corporate bond principal, Operations Manager, and a representative from trading desk, meet quarterly to review NASD TRACE Report Cards and data to assess the quality and timeliness of SSGM's TRACE reporting.
6. Increased the coordination between the back office and sales group to ensure that they are working together to meet the reporting requirements for TRACE

II. Municipal Reporting

With respect to MSRB reporting, the firm has taken the following corrective actions:

1. SSGM immediately remedied the technical reporting for the street side transactions by correcting the reporting process through NSCC.

2. Instituted additional mandatory training for the trading and operations staff responsible for MSRB reporting as to the proper method and requirements of reporting municipal transactions.
3. SSGM enhanced the trade reporting process by fully automating both the street side and customer side reporting. In preparing for the MSRB real time reporting requirements SSGM fully automated all MSRB G-14 reporting functions. All customer and street side transactions are reported directly to the MSRB via a feed through NSCC's RTTM system.
4. SSGM revised its written supervisory procedures to require that the principal responsible for MSRB trade reporting review and signoff on all municipal securities transactions effected by SSGM each day and review all municipal securities transactions reported. In addition the traders are required to continuously monitor the municipal trade reporting website for status of trade reports.
5. SSGM revised its written supervisory procedures to require that municipal principal at least quarterly confer with the CCO (or designee) to review municipal reporting procedures and processes as well as available municipal reporting data and statistics as provided by the NASD and MSRB to assess the quality and timeliness of municipal reporting.

III. Audits and Annual Review

1. SSGM Compliance and the internal audit group of the bank will work together to define the scope and extent of the annual reviews of the business of SSGM as required under Rule 3010(c) so that the reviews are complete and comprehensive.
2. SSGM and the Bank have agreed to institute additional internal and external training relating to the auditing of broker/dealers for internal auditors who review SSGM business units in accordance with Rule 3010(c);
3. SSGM Compliance will assign a compliance officer to advise and consult with internal audit in the conduct of the annual reviews under Rule 3010(c).