



DETERMINATION OF MERGER NOTIFICATION M/12/015 – STATE STREET / GOLDMAN SACHS

Section 21 of the Competition Act 2002

Proposed acquisition, by State Street Corporation, through State Street Bank and Trust Company, of Goldman Sachs Administration Services Business

Dated 14 September 2012

Introduction

1. On 15 August 2012, in accordance with Section 18 of the Competition Act, 2002 ("the Act"), the Competition Authority ("the Authority") received a notification of a proposed transaction whereby State Street Corporation, through its wholly-owned subsidiary State Street Bank and Trust Company ("SSB"), would acquire the hedge fund administration business of The Goldman Sachs Group Inc. known as Goldman Sachs Administration Services ("GSAS").
2. The proposed acquisition includes the entire issued share capital of both Goldman Sachs Administration Services Company Limited (GSAS Ltd) and Goldman Sachs (Cayman) Trust Limited.¹ The transaction also involves the acquisition of assets held by GSAS including (i) customer contracts, (ii) select data and records exclusively related to the GSAS business, and (iii) the transfer of employees.²

The Undertakings Involved

The Acquirer

3. The ultimate parent company in this transaction is State Street Corporation ("State Street"), a US registered company. State Street is one of the world's leading providers of financial services including investment servicing, investment management and investment research and trading to institutional investors. State Street operates in 29 countries worldwide and as of 30 June 2012 had €18.5 trillion in assets under custody and €1.57 trillion in assets under management.
4. The acquisition will be effected through SSB, which is a wholly owned subsidiary of State Street and is also one of State Street's principal operating companies. SSB operates as a custodian bank and services several areas including mutual funds and other collective investment funds and investment managers worldwide.³

¹ GSAS Ltd was incorporated in Ireland on 21 March 2012 while Goldman Sachs (Cayman) Trust Limited is registered in the Cayman Islands.

² The parties submit that approximately [100-200] staff of the GSAS business will be transferred as part of the transaction, including full-time, part-time and contingent workers who are based in locations such as the Cayman Islands, Jersey City, New York, Dublin, Singapore and Toronto.

³ A custodian bank is a specialized financial institution responsible for safeguarding a legal entity's or an individual's financial assets and is not necessarily engaged in traditional commercial or consumer/retail banking.

5. Within the State, State Street provides the following services through its Irish subsidiaries:⁴
- Fund administration services, which include accounting services and net asset valuation, share registration services, transfer agency, record keeping services, ancillary tax reporting and secretarial services, and transaction and portfolio reporting services;
 - Custody and trustee services, which involve the safekeeping of the assets, processing of income and dividends and also arranging for withholding tax relief, and acting as trustee to collective investment schemes and tax reclaim; and
 - Asset management services, which involve the provision of investment advisory and financial planning services and managing assets on behalf of clients.⁵
6. For the financial year ending 31 December 2011, State Street had a worldwide turnover of €7.8 billion and turnover in the State for the same period of approximately €[...] million.⁶

The Vendor

7. GSAS is ultimately owned and controlled by The Goldman Sachs Group Inc., a US corporation registered in the state of Delaware. The Goldman Sachs Group Inc. is involved in the business of investment banking and securities and investment management on a global scale, providing "a wide range of financial services to a substantial and diversified client base that includes corporations, financial institutions, governments and high-net-worth individuals."⁷
8. Within the State, Goldman Sachs Group, Inc. has a number of subsidiary companies including:
- GSAS Ltd which services the hedge fund administration business known as GSAS;
 - Goldman Sachs Bank (Europe) plc which operates as a commercial and investment bank that engages in, among others things, banking business and financial services. It is an indirect wholly-owned subsidiary of Goldman Sachs;
 - Goldman Sachs Ireland Holdings Limited which provides security brokering and fund management services; and
 - Goldman Sachs Ireland Group Limited which is a commercial bank that provides security broking and fund management services.

⁴ State Street has the following Irish subsidiaries: International Fund Services (Ireland) Limited ("IFS") and State Street International (Ireland) Ltd. State Street International (Ireland) Limited itself has the following subsidiaries: State Street Custodial Services (Ireland) Limited and State Street Fund Services (Ireland) Limited,

⁵ State Street became involved in this business following its acquisition of Bank of Ireland Asset Management in January 2011.

⁶ The € figures provided by the parties have been rounded up and are based on a USD/€ exchange rate during July/August 2012.

⁷ See www.goldmansachs.com.

GSAS

9. GSAS comprises the hedge fund administration business of Goldman Sachs. This business operates in four primary locations: Jersey City, New Jersey (United States); Dublin (Ireland); Toronto, Ontario (Canada); and Grand Cayman (Cayman Islands). GSAS is primarily involved in hedge fund administration and the parties submit that it administers approximately USD 200 billion/EUR 165.3 billion in single manager hedge fund assets on behalf of approximately 150 investment manager clients worldwide.
10. Within the State, GSAS provides hedge fund administration services through GSAS Ltd. The services offered by GSAS Ltd include:
- investor services; and
 - fund accounting; and
 - "middle office and daily services" including daily reconciled profit and loss reporting and operational reporting;
- The above services are provided by the following teams within GSAS in particular:
- product development team; and
 - client implementation team.
11. The parties have confirmed that all of the GSAS business within Ireland to be acquired is entirely owned, controlled and contained within GSAS Ltd.⁸
12. For the financial year ending 31 December 2011, GSAS had a worldwide turnover of approximately €[50-150] million and turnover in the state for the same period of approximately €[0-50] million.⁹

Rationale for the Proposed Transaction

13. The parties submit that the proposed acquisition offers State Street the opportunity *"to add to its existing fund administration operations a strong hedge fund administration servicing franchise supported by longstanding relationships with highly regarded clients with a similar industry-leading service philosophy."* The parties further submitted that the proposed acquisition will allow GSAS *"to offer its clients an enhanced product offering that covers the entire investment lifecycle and provides regulatory compliance risk and transparency solutions requested by its clients."*¹⁰

Third Party Submissions

14. No third party submission was received.

⁸ By e-mail of 30 August 2012 in response to queries raised by the Authority on 27 August 2012.

⁹ The € figures provided by the parties have been rounded up and are based on a USD/€ exchange rate during July/August 2012.

¹⁰ As described by the parties at section 2.7 of the Notification.

Analysis

15. Within the State, State Street is involved in the provision of fund administration and custody and trustee services through State Street Fund Services (Ireland) Limited and State Street Custodial Services (Ireland) Limited. The services offered by both companies are provided to investment funds domiciled both in Ireland and elsewhere. In addition, IFS, another State Street subsidiary, provides administration services to hedge funds not domiciled in Ireland.
16. Within the State, GSAS is only involved in the provision of fund administration services to investment funds domiciled in Ireland and within other jurisdictions.¹¹ GSAS currently provides service to [...] within the State.¹²

Fund Administration Services

17. The Authority has on several occasions reviewed proposed mergers concerning the fund administration services sector, most recently in 2011.¹³ The Authority has accepted that Fund administration services typically include accounting services and net asset valuations, share registration and taxation services, transfer agency, record keeping services, and portfolio reporting services.
18. The parties submit that service providers operate within a regulated industry with Investment funds domiciled in Ireland subject to relevant Irish legislation and regulations. It is a condition of the establishment of such funds that they are both established and administered from Ireland.¹⁴ Customers are generally fund managers or promoters who act on behalf of large institutional and insurance companies with an international dimension.
19. The parties further submit that customers are large, well resourced and sophisticated buyers, and are able and willing to switch service providers if their required standards of price, quality and service are not met. Switching is not generally costly or difficult; fund administration service contracts are typically concluded following a tender process. Contracts can generally be terminated upon 90 days notice. In addition fund managers keep their fund administration arrangements under regular commercial and quality review.¹⁵
20. The Authority has found no evidence that contradicts the parties' submission in paragraphs 18-19, above.
21. Total assets of funds under administration in Ireland amounted to €2.07 trillion as at May 2012 – up from €1.88 trillion at the end of 2010.¹⁶ Irish domiciled fund represented approximately €908 billion of this figure with the non-Irish domiciled funds accounting for the

¹¹ Such as the Cayman Islands, British Virgin Islands, Malta and Mauritius.

¹² The parties submit that approximately USD [5-10] million of GSAS's Irish branch turnover relates to provision of services to customers related elsewhere in the EU.

¹³ For a full description of the fund administration sector please see the Authority's Determination of 5 April 2011 in M/11/010 Northern Trust / BoISS. See also M/10/006 BNY Mellon/GIS, M/09/026 State Street/Mourant Limited and M/07/026 State Street/IFIN.

¹⁴ S.I. 211 of 2003 gives effect to European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations 2003.

¹⁵ Reviews are generally undertaken every two to three years.

¹⁶ Source: Irish Funds Industry Association Factsheet June 2012 available to download at <http://www.irishfunds.ie/fs/doc/statistics/statistics-factsheet-overview-june12-20121.pdf>

remaining €1,164 billion. Furthermore, as the first quarter of 2012, there are 7,250 non-domiciled funds and 5,165 Irish-domiciled funds under administration in Ireland.

22. In June 2011 there were approximately 38 entities providing fund administration services to Irish-domiciled funds within the State.¹⁷ Lipper data supplied by the parties' shows that in 2011 State Street (including IFS) had a market share of [25-30] % of the fund administration services to Irish-domiciled funds, whereas GSAS did not provide any services during this time.¹⁸ Currently, GSAS has [...] which represents less than [0-5] % of the fund administration services to Irish-domiciled funds. This would result in minimal increase in the share of State Street and will not alter State Street's ranking as the number one provider of fund administration services based on assets under administration to Irish domiciled funds. State Street would remain slightly ahead of BNY Mellon at [20-25]%, while JP Morgan has [15-20]% and Northern Trust has [10-15] % share of the market. Although GSAS is a major financial firm, the Authority does not regard the loss of an independent GSAS as competitively troubling, in light of the substantial competitive alternatives available.
23. In the case of providing administration services to non-Irish-domiciled funds, State Street and GSAS face global competition from service providers based in Luxembourg, Cayman Islands, USA, Bermuda and Canada.
24. In June 2011 there were approximately 40 entities providing fund administration services to non-Irish domiciled funds within the State.¹⁹ Lipper data supplied by the parties indicate market shares for fund administration services provided in the State to non-Irish domiciled funds of approximately [10-15]% for State Street (including IFS) and [0-5]% for GSAS.²⁰ This would result in minimal increase in the share of State Street and would not alter State Street's ranking as the third largest provider of fund administration services, based on assets under administration, to non-Irish-domiciled funds. State Street at [10-15]% lies behind Citi with [15-20]% and BNY Mellon with [15-20]% market shares.
25. The parties submit that in the provision of fund administration services on a global basis, based on a total figure of USD 3.390 billion of assets under administration, State Street has approximately [15-20]% of the reported assets under administration while GSAS has approximately [5-10]%.²¹ Post transaction State Street would have a combined market share of about [20-25]% of the global fund administration services market.

¹⁷ As provided by Lipper Ireland Funds Encyclopaedia 2011/2012.

¹⁸ Market Share figures are based on ranking by assets under administration as of 30 June 2011.

¹⁹ As provided by Lipper Ireland Funds Encyclopaedia 2011/2012.

²⁰ Market Share figures are based on ranking by assets under administration as of 30 June 2011, where IFS has [10-15]% and State Street has [0-5]% giving a combined market share for State Street pre transaction of [10-15]%.

²¹ The market share figures are based on the April 2012, HFM Week Single Manager and FoHF AuA surveys. According to this data State Street administers USD 505.5 billion assets and GSAS administers USD 200.6 billion assets globally out of the total market of USD 3,390 billion. The parties have advised that the figures in these surveys are based on administrators' reported numbers (as opposed to hedge fund manager reported numbers) and may be somewhat inaccurate due to double counting issues (e.g., arising from shadow accounting services).

26. The proposed transaction is unlikely to raise any competition concerns for the following reasons:
- There is no vertical overlap between the parties.
 - There is a minimal horizontal overlap in the activities of the parties in the State relating to the provision of fund administration services to Irish domiciled funds and to funds domiciled elsewhere (where the use of an external service provider is authorised by the relevant fund).
 - Globally and within the State, post-acquisition, the merged entity will continue to face strong competition from alternative suppliers of fund administration services including such globally established companies as BNY Mellon, JP Morgan, Citi, Brown Brothers Harriman and HSBC Securities Services.
27. The Authority therefore considers that the proposed transaction is not likely to raise competition concerns in relation to the provision of fund administration services in the State.

Ancillary Restraints

28. Goldman Sachs, as the vendor, has agreed to a number of ancillary restraints including:
- a non-compete and non-interference clause for a period of [...] years post-completion;
 - a non-solicitation clause of identified key employees of the transferred business or employees engaged in broakerage for a period of [...] years post-completion; and
 - a non-solicitation clause for any transferred employee for a period of [...] months post transaction completion.

The Authority considers that these restrictions are directly related to and necessary for the implementation of the proposed transaction.

DETERMINATION

The Competition Authority, in accordance with Section 21(2) of the Competition Act, 2002, has determined that, in its opinion, the result of the proposed acquisition whereby State Street Corporation through its wholly-owned subsidiary State Street Bank and Trust Company would acquire the hedge fund administration business of Goldman Sachs Group Inc. known as Goldman Sachs Administration Services will not be to substantially lessen competition in any market for goods or services in the State and, accordingly, that the acquisition may be put into effect.

For the Competition Authority

Stephen Calkins
Member of the Competition Authority
Director, Mergers Division