



STATE STREET.

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June 9, 2009

Via e-mail: markt-g3@ec.europa.eu

Maria Velentza, Head of Unit Securities Markets
European Commission
DG Internal Market & Services
2, Rue de Spa
1000 Brussels
Belgium

Response to the Call for Evidence on the Market Abuse Directive

Dear Ms. Velentza:

Headquartered in Boston, U.S.A., State Street Corporation ("State Street")¹ specializes in providing institutional investors with investment servicing, investment management and investment research and trading. With \$11.3 trillion in assets under custody and \$1.4 trillion in assets under management as of March 31, 2009, State Street operates in 27 countries and more than 100 markets worldwide. Our European-based workforce of over 6,400 employees provides services to institutional investors from offices in Austria, Belgium, France, Germany, Ireland, Italy, Luxembourg, the Netherlands, Poland, Switzerland and the United Kingdom.

State Street would like to thank the European Commission ("Commission") for the opportunity to comment on the Call for Evidence on the review of the Market Abuse Directive ("MAD"). We welcome the Commission's efforts to simplify and enhance the MAD's operational efficiency. We also broadly agree with the approach envisioned by the Commission. We note, however, the importance of effective national implementation and, subsequently, the efficient monitoring and enforcement of MAD provisions. Currently, the approach of national supervisory authorities to the interpretation and, in particular, the policing of the MAD rules is not always consistent. As an example, the UK regime is sometimes referred to, and is implemented on, a "super-equivalent" basis. State Street therefore encourages the Commission to come forward with proposals to encourage the more consistent enforcement of the MAD across the European Union ("EU").

State Street acknowledges the increasing global scrutiny of the practice of short selling and therefore the need for a more consistent and robust regulatory framework. We note, however, that short selling remains an essential tool in the promotion of liquid, efficient and transparent financial markets. This includes the facilitation of essential market making activities. As such, efforts to address short selling within the MAD framework may lead to broad public and regulatory misconceptions. Short selling is a legitimate and well-established financial market practice and therefore should not be addressed in the context of a Directive which substantially focuses on incidences of market misconduct.

¹ State Street's identification number in the EC's interest representatives register is 2428270908-83.

As an alternative, we encourage the Commission and the Committee of European Securities Regulators to consider short selling as a separate regulatory work stream. As widely acknowledged, the fragmented measures taken by national supervisors to restrict the practice of short selling in the wake of financial market turmoil have led to broad industry confusion and unnecessary compliance costs. We therefore urge the development of a consistent EU framework on short selling, based on the four principles set forth by the International Organization of Securities Commissions; namely that short selling should be subject to appropriate risk-based controls, a timely reporting regime, an efficient compliance and enforcement system, and certain exceptions to facilitate market efficiency. The imposition of emergency measures in times of market turbulence properly remains at the discretion of national supervisors. Due, however, to the cross-border nature of financial markets, we believe that a coordinated EU approach would be most beneficial.

Finally, we agree with the Commission that, due to their inter-linkage with “physical” markets, commodity derivatives are a specific case that warrants a separate, tailored regulatory approach. The guiding principle in this respect should be the establishment of adequate safeguards to ensure that the markets function as transparently and efficiently as possible.

Please do not hesitate to contact me should you have any questions in regards to our submission.

Sincerely,

A handwritten signature in black ink, appearing to read 'Stefan Gavell', written in a cursive style.

Stefan Gavell