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Mr. Brent J. Fields
Secretary
Securities and Exchange Commission
100 F. Street, NE.
Washington, D.C. 20549-1090

Via email: rule-comments@sec.gov

Re: Open-End Fund Liquidity Risk Management Programs; Swing Pricing; Re-Opening of Comment Period for Investment Company Reporting Modernization Release (File Nos. S7-16-15 and S7-08-15)

State Street Corporation (State Street) and State Street Global Advisors (SSGA), the investment management arm of State Street, appreciate the opportunity to comment on the Securities and Exchange Commission (the Commission) proposal to promote effective liquidity risk management throughout the open-end fund industry[1].

Headquartered in Boston, Massachusetts, State Street specializes in providing institutional investors with investment servicing, investment management and investment research and trading. With $27.265 trillion in assets under custody and administration and $2.203 trillion in assets under management as of September 30, 2015, State Street operates in more than 100 geographic markets worldwide. State Street is organized as a United States (U.S.) bank holding company, with operations conducted through several entities, including SSGA, its asset management division. SSGA Funds Management, Inc. (SSGA FM), a U.S. registered investment adviser, and other affiliates of State Street make up SSGA. SSGA FM serves as investment adviser to registered open-end funds, including open-end exchange-traded funds (ETFs), with $362.96 billion in assets under management as of September 30, 2015.

State Street and SSGA strongly support the Commission as the primary regulator of open-end funds and the U.S. securities markets, and are broadly supportive of the Commission's efforts to ensure continued sound liquidity management in open-end funds. As the Commission notes in its proposal, such open-end funds have a long history of providing reliable daily liquidity to investors.

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[1] Open-End Fund Liquidity Risk Management Programs; Swing Pricing; Re-Opening of Comment Period for Investment Company Reporting Modernization Release, Release Nos. 33-9922, IC-31835 (Sept. 22, 2015), 80 Fed. Reg. 62274 (Oct. 15, 2015).

While we support the overall goals of the liquidity proposal, and strongly support several of its individual elements, we share general industry concerns that some aspects of the proposal may be overly prescriptive, and could benefit from a more flexible approach[2].

In our view, the potential impact of the Commission's proposal is substantial and far-reaching, and could, if imperfectly drafted, detract from fund performance by constraining managers' ability to take measured actions to adapt to changing market environments and opportunities. For the long-term, buy and hold investors, particularly retirement savers, that are, by far, the largest group of open-end fund shareholders, even small drags on fund performance can compound over time into significant reductions in portfolio balances, resulting in meaningful reductions in retirement security and income.

More specifically, we believe that there is a critical need to exclude most ETFs from certain aspects of the proposal. ETFs that transact almost exclusively in-kind with authorized participants have virtually no cash liquidity obligation. We believe that the imposition of liquidity requirements designed for funds with daily cash redemption requirements will negatively impact ETF investors.

More detail on our specific recommendations follows below; in summary:

- As mentioned above, we strongly urge the Commission to provide an exclusion from several aspects of the proposal for ETFs that satisfy redemptions in-kind.
- We support the proposed requirement that open-end management investment companies adopt a written liquidity risk management program.
- We suggest that the Commission consider allowing more flexibility for management investment companies to tailor their liquidity risk programs, particularly in the areas of liquidity "bucketing" of portfolio assets and the proposed three-day liquid asset minimum.
- We support codification of the Commission's current guidance establishing a 15% limitation on illiquid assets.
- We oppose the public disclosure of the liquidity classification "buckets."
- We agree that optional "swing pricing" for funds is a desirable goal, but do not believe the concept is workable under the current U.S. market structure and practices.
- We suggest clarification of the oversight role of the investment company board.
- We recommend a 30-month transition period for all funds.

Application to ETFs

State Street created the first U.S. listed ETF in 1993 (SPDR S&P 500® – Ticker SPY) and has remained on the forefront of responsible innovation, as evidenced by the introduction of many ground-breaking products, including first-to-market launches with gold, international real estate, international fixed income, and sector ETFs. SSGA manages approximately $378.2 billion in ETF assets worldwide, as of September 30, 2015, and is one of the largest ETF providers in the U.S. and globally.

We believe that a principles-based liquidity risk management program will allow funds and their managers to most appropriately manage funds' liquidity risk. If, however, the Commission determines to adopt the prescriptive elements of the proposal, State Street and SSGA strongly recommend that open-end ETFs which primarily distribute redemption proceeds in the form of in-kind securities (as opposed to cash), be excluded from the liquidity classification scheme as well as the three-day liquid asset minimum requirement.

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2 See, for example, the comments letters of the Investment Company Institute and the Securities Industry and Financial Markets Association related to this proposal.

Funds which must satisfy redemption requests in cash must find a willing cash buyer for portfolio holdings. The concept of liquidity is an entirely different consideration for ETFs which transact in-kind. There is simply no need for such ETFs to be able to convert their holdings to cash, and every holding in the ETF's portfolio is liquid in the sense that it can be distributed in exchange for a redemption to the only parties eligible to transact with the ETF (the authorized participants), who agree, and in most instances prefer, to receive such proceeds in-kind. The relative liquidity classification of each portfolio holding in such an ETF would be a largely meaningless exercise which would serve only to absorb time and resources which the ETF's manager could better expend elsewhere. Similarly, the establishment and maintenance of a three-day liquid asset minimum would be irrelevant for such ETFs, as every asset in the ETF's portfolio – regardless of the ability of the ETF to convert such asset to cash – could be used to satisfy a redemption.

The three-day liquid asset minimum will also be problematic for those ETFs which, pursuant to their exemptive relief, are required to receive in-kind subscriptions corresponding pro rata to the positions in the ETF's portfolio, to the extent that the ETF's liquid assets have fallen below the prescribed three-day minimum. Presented with a creation basket composed of a pro rata slice of the ETF's securities, the ETF would face a situation in which it could not accept those securities in its index which are considered less liquid assets or risk violating its exemptive relief. If the ETF accepts a basket of securities that excludes the less liquid securities, it may risk being seen to violate its exemptive relief, and, to the extent that such a creation basket does not closely correspond with the characteristics of the underlying index, could risk increasing the ETF's tracking error. If the ETF complies with its exemptive relief and accepts a basket of securities that includes the less liquid securities, it may risk running afoul of the prohibition on obtaining less liquid securities until it meets its three-day liquid asset minimum.

We strongly urge the Commission to exclude ETFs that transact in-kind from the relative liquidity scheme and the three-day liquid asset minimum requirements.

Written liquidity risk management programs

State Street and SSGA support the proposal to require certain types of open-end management companies to adopt a written liquidity risk management program that is designed to assess and manage a fund's liquidity risk. We believe that such written liquidity risk management programs are beneficial to managing liquidity risk, and therefore protect investors.

Tailored approach to liquidity risk management

Despite our support for mandatory written liquidity risk management programs, we are concerned that elements of such programs as proposed by the Commission are too rigid, and we believe that the proposal would be greatly improved by adopting a more flexible approach that allows open-end investment management companies greater ability to tailor liquidity risk management programs to individual circumstances.

The key goal of any liquidity risk management program is, of course, to ensure that funds have sufficient liquidity to meet investor redemptions. The Commission has proposed a very rigid approach to designing such liquidity risk programs which includes, for example, a highly prescriptive six-bucket approach to assessing the liquidity of portfolio assets and a specific three-day liquid asset requirement. While the concepts embedded in the Commission's proposal may be useful guidance to investment management companies, and, perhaps, the specific approach in the proposal may be appropriate in some instances, we are concerned that the overly prescriptive approach proposed by the Commission is not consistent with industry's current and overwhelmingly effective liquidity risk management programs, and could frustrate, rather than achieve, the Commission's stated goals.

With respect to the design of any bucketing classification approach, the amounts held by a fund should be taken into account and overall flexibility needs to be an important element so that funds can manage to objectives such as converting a holding to cash without “materially affecting the value” of an asset before the sale – which is inherently ambiguous and extremely difficult to apply. Funds should be able to take short and long-term cash projections into account when analyzing fund liquidity (*e.g.*, coupon payments, maturities, derivative cash flows, margin calls, collateral requirement) and include components such as committed lines of credit as a source of liquidity inflow in normal and stress times. We believe that a principles-based approach, similar to the one that the Commission adopted in connection with Rule 38a-1 under the Investment Company Act of 1940, as amended, along with appropriate Commission guidance on baseline factors to consider, will best serve funds, their shareholders and the investing public and meet the Commission’s goals. Under such an approach, funds and their managers would develop (or in some instances, merely continue with) policies and procedures, suited to their respective organizations, that are reasonably designed to assess and manage a fund’s liquidity risk. Such policies and procedures would be designed to appropriately manage, monitor and, as necessary, disclose the liquidity of a fund’s holdings and could, among other things, designate an individual primarily responsible for managing a fund’s liquidity risk, require regular reporting to the fund’s board of trustees and establish certain appropriate liquidity targets which a fund would seek to achieve.

In the event that a three-day liquid asset minimum is included in the final rules, consideration should be given to allowing funds flexibility such that they should not have to constantly maintain the three-day liquid asset minimum. Funds should not have to seek to dispose of illiquid assets to maintain the three-day liquid asset minimum. Another example of flexibility would include that if a fund’s “three-day liquidity pool” dipped below its “three-day liquid asset minimum”, trades which improve but do not eliminate the gap should be permitted.

Codification of the 15% illiquid asset test guidance

The Commission has proposed codifying current Commission guidance limiting an open-end fund to 15% of its net assets in “illiquid assets.” Under the Commission’s proposal, funds would be prohibited from acquiring any additional so-called “15% standard assets” if immediately after the acquisition the fund would have invested more than 15% of its total assets in “15% standard assets.”

We support the Commission’s proposal to codify this requirement. Assets of open-end funds should be predominantly liquid, and we believe that strengthening this requirement by replacing the existing guidance with a formal regulatory mandate is an important investor protection measure.

Public disclosure of liquidity classification “buckets”

We oppose public disclosures related to the proposed liquidity classification buckets. Despite the prescriptiveness inherent to the Commission’s proposed approach, the development of liquidity risk management programs using the six buckets will require considerable subjective judgment on behalf of open-end management investment companies, and, if adopted as proposed by the Commission, there will be instances where the assignment to individual buckets will be quite complex, with, for example, identical securities being assigned to multiple liquidity buckets. Disclosure of such information to the public provides little or no benefit to investors, and the illusion of comparability that will result could, in fact, be misleading. We believe that such information could be provided to the Commission for oversight purposes, but should not be released to the general public, especially not at the security level.

Swing pricing

We believe that the practice of swing pricing, particularly as an optional fund practice as proposed by the Commission, has significant potential to help ensure the equitable treatment of open-end fund investors by mitigating the potential dilution of fund shareholders and externalizing transaction costs for funds. SSGA's experience in Europe, where swing pricing is being used, has been positive, and we believe that U.S. investors in open-end funds could benefit from similar practices.

Unfortunately, however, current U.S. market practices differ from those in Europe, particularly with respect to the timing of data related to fund flows, making immediate adoption of the Commission's proposed swing pricing regime virtually impossible for U.S. open-end funds. Currently, U.S. open-end funds receive fund flow information on a timetable which does not permit adjustment of net asset values based on a swing factor.

Additionally, in order for custodians, such as State Street, to be operationally ready to service clients wishing to enact swing pricing, rigorous systems testing will be required to ensure a reliable process. This testing is dependent on transfer agents and clients providing the necessary fund flow information. Given the operational challenges facing the industry, we may need additional time to ensure proper testing.

As a result, we suggest that the Commission defer further action on its swing pricing proposal and initiate a Commission-led consultative process, to include input from all relevant market service providers and intermediaries, and to identify and attempt to resolve U.S. market practice obstacles to the use of swing pricing by open-end funds.

Board governance

The Commission proposes that a fund's board of directors, including a majority of its directors who are not interested persons of the fund, approve the fund's liquidity risk management program which includes any material change to the liquidity risk program and any change to the three-day liquid asset minimum.

We agree that the board should generally approve a fund's liquidity risk management program, similar to how boards are required to approve fund compliance programs under Rule 38a-1. However, a distinction should be made between board approval of the general liquidity risk management program and board oversight of specific elements such as the three-day liquid asset minimum. We believe that the more appropriate role of the board is to oversee the setting of the fund's three-day liquid asset minimum, if adopted as proposed, as part of its general liquidity risk management program approval. Frequent re-assessment of such minimum would allow funds to respond to changing market conditions in a more timely manner.

Compliance dates

We recommend that the compliance date for the Commission's proposals be 30 months following the effective date for all funds. While larger funds and managers may have more resources devoted to establishing or burnishing liquidity risk management programs than smaller funds and managers, we encourage the Commission to consider the complexity of preparing, testing and implementing its proposals in large organizations.

Conclusion

Once again, State Street and SSGA appreciate the opportunity to comment on the Commission's proposed open-end fund liquidity risk management proposal. As noted above, while we have suggested some changes to the Commission's proposal, we are strongly supportive of the

Commission's goal to ensure the continued strong liquidity of open-end funds, which has long been a critical investor protection for long-term, buy and hold investors, such as retirement savers.

Sincerely,

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