



EXECUTIVE DIRECTOR

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

February 12, 2004

Karen H. McMillan, Esq.
Shearman & Sterling LLP
801 Pennsylvania Avenue, NW
Washington, DC 20004-2604

**Re: Legg Mason Wood Walker, Incorporated—Waiver Request under
Regulation A and Rule 505 of Regulation D**

Dear Ms. McMillan:

This is in response to your letter dated today, written on behalf of Legg Mason Wood Walker, Incorporated (the "Firm"), a registered broker-dealer, and constituting an application for relief under Rule 262 of Regulation A and Rule 505(b)(2)(iii)(C) of Regulation D under the Securities Act of 1933. You requested relief from disqualifications from exemptions available under Regulation A and Rule 505 of Regulation D that arise by virtue of the entry today of a Commission order under Section 15(b) of the Securities Exchange Act of 1934 naming the Firm as respondent (the "Order").

For purposes of this letter, we have assumed as facts the representations set forth in your letter. We also have assumed that the Firm will comply with the Order.

On the basis of your letter, the Commission, pursuant to delegated authority, has determined that you have made a showing of good cause under Rule 262 and Rule 505(b)(2)(iii)(C) that it is not necessary under the circumstances to deny the exemptions available under Regulation A and Rule 505 of Regulation D by reason of the entry of the Order. Accordingly, the relief described above from the disqualifying provisions of Regulation A and Rule 505 of Regulation D is hereby granted.

Sincerely,

A handwritten signature in cursive script that reads "Gerald J. Laporte".

Gerald J. Laporte
Chief, Office of Small Business Policy

SHEARMAN & STERLING LLP

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WRITER'S DIRECT NUMBER:

February 12, 2004

(202) 508-8160

VIA HAND DELIVERY

Gerald Laporte, Esq.
Chief, Office of Small Business Policy
Division of Corporation Finance
U.S. Securities and Exchange Commission
450 Fifth Street, N.W.
Washington, D.C. 20549

Re: *In the Matter of Certain Mutual Fund Breakpoint Discounts* (MHO - 9791)

Dear Mr. Laporte:

On behalf of Legg Mason Wood Walker, Incorporated ("Legg Mason"),¹ we respectfully request pursuant to Rule 262 of Regulation A and Rule 505(b)(2)(iii)(C) of Regulation D promulgated under the Securities Act of 1933 (the "Securities Act"), a waiver of any disqualification from exemptions under Regulation A and Rule 505 of Regulation D that may be applicable to Legg Mason and any of its affiliates as a result of the entry of the order today by the Commission against Legg Mason. Legg Mason respectfully requests that these waivers be made effective as of the date of entry of the order.

Background

The staff of the Division of Enforcement engaged in settlement discussions with Legg Mason and other registered broker-dealers in connection with the above-captioned proceeding, which were brought pursuant to Section 8A of the Securities Act and Sections 15(b)(4) and 21C of the Securities Exchange Act of 1934 (the "Exchange Act"). As a result of these discussions, Legg Mason submitted an offer of settlement in which, solely for the purpose of resolving the above-captioned proceeding and any other proceeding involving the same facts brought by or on behalf of the Commission or in which the Commission is a party, it consented to the entry of an

¹ Legg Mason is a broker-dealer registered with the Securities and Exchange Commission (the "Commission") and is engaged in a full-service business, including retail and institutional sales, investment banking services, trading and research.

order (the "Order") without admitting or denying the matters in the Order (other than those relating to the jurisdiction of the Commission).

Under the Order, the Commission made findings, without admission or denial by Legg Mason, that in connection with the failure to deliver discounts on front-end sales charges ("breakpoints") to investors purchasing shares of mutual funds through Legg Mason, Legg Mason willfully violated Section 17(a)(2) of the Securities Act and Rule 10b-10 under the Exchange Act. Based on these findings, the Order provides that Legg Mason be censured. The Order requires that Legg Mason cease and desist from committing any violations and any future violations of Section 17(a)(2) of the Securities Act and Rule 10b-10 under the Exchange Act, and pay a civil penalty of \$2,315,467 (one half of which will be paid pursuant to the Order and one half of which will be paid to the National Association of Securities Dealers ("NASD") in a related proceeding).

In addition, pursuant to Legg Mason's Letter of Acceptance, Waiver and Consent (the "AWC") being submitted to NASD to resolve the related disciplinary action, Legg Mason agreed to undertake certain remedial and corrective measures related to providing refunds to customers who did not receive appropriate breakpoint discounts. These measures include: (a) providing written notification to each customer who purchased front-end load mutual fund shares through Legg Mason, for the period specified by the AWC, that the firm experienced a problem delivering breakpoint discounts, and that, as a result, the customer may be entitled to a refund; (b) performing a trade-by-trade analysis of all front-end load mutual fund purchases of \$2,500 or more for the period specified by the AWC, which review would encompass all other purchases during that same time period, regardless of dollar amount by such customers; (c) undertaking vigorous efforts to locate each customer so identified as entitled to a refund and promptly making refunds to all customers who did not receive all applicable breakpoint discounts; and (d) providing a report on Legg Mason's refund program to NASD.

Discussion

Legg Mason understands that the entry of the Order may disqualify it and its affiliated entities from participating in certain offerings otherwise exempt under Regulation A and Rule 505 of Regulation D under the Securities Act because the Order may be deemed to cause Legg Mason to be subject to an order of the Commission pursuant to Section 15(b) of the Exchange Act. The Commission has authority to waive the Regulation A and Rule 505 of Regulation D exemption disqualifications upon a showing of good cause that such disqualifications are not necessary under the circumstances. See Rule 262 of Regulation A and Rule 505(b)(2)(iii)(C) of Regulation D under the Securities Act. Thus, Legg Mason requests that the Commission waive any disqualifying effects that the Order may have under Regulation A and Rule 505 of Regulation D with respect to Legg Mason or its affiliates on the following grounds:

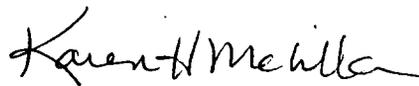
1. Legg Mason's conduct addressed in the Order does not relate to offerings under Regulation A or D. Rather, the alleged violations are confined to the application of breakpoints to investors purchasing shares of mutual funds through Legg Mason.

2. Legg Mason will undertake or has undertaken to improve and enhance its compliance and surveillance policies and procedures relating to the subject matter of the Order, which will help or has helped to prevent recurrence of the conduct at issue.
3. The disqualification of Legg Mason from the exemptions under Regulation A and Rule 505 of Regulation D would, we believe, have an adverse effect on the third parties that have retained Legg Mason and its affiliates in connection with transactions that rely on these exemptions.
4. The disqualification of Legg Mason from the exemptions available under Regulation A and Rule 505 of Regulation D would be unduly and disproportionately severe, given that:
(a) the Order relates to activity that is unrelated to Regulation A and Rule 505 of Regulation D; (b) the disqualification could adversely affect the business operations of Legg Mason; (c) Legg Mason must pay a significant civil penalty pursuant to the Order; and (d) Legg Mason must pay disgorgement and prejudgment interest in connection with the customer refund program summarized above.

In light of the grounds for relief discussed above, we believe that disqualification is not necessary, in the public interest or for the protection of investors, and that Legg Mason has shown good cause that relief should be granted. Thus, we respectfully urge the Commission, pursuant to Rule 262 of Regulation A and Rule 505(b)(2)(iii)(C) of Regulation D, to waive the disqualification provisions in Regulation A and Rule 505 of Regulation D to the extent that they may be applicable to Legg Mason and any of its affiliates as a result of the entry of the Order.²

If you have any questions regarding this request, please contact the undersigned at (202) 508-8160.

Sincerely yours,



Karen H. McMillan

cc: Andrew Sporkin, Esq.

² We note in support of this request that the Commission has in other instances granted relief under Rule 262 of Regulation A and Rule 505(b)(2)(iii)(C) of Regulation D for similar reasons. See, e.g., *Merrill, Lynch, Pierce, Fenner & Smith, Incorporated*, SEC No-Action Letter (pub. avail. Oct. 31, 2003); *Morgan Stanley & Co. Incorporated*, SEC No-Action Letter (pub. avail. Oct. 31, 2003); *Credit Suisse First Boston Corporation*, SEC No-Action Letter (pub. avail. Jan 29, 2002); *Dain Rauscher, Incorporated*, SEC No-Action Letter (pub. avail. Sept. 27, 2001); *In the Matter of Certain Market-Making Activities on Nasdaq*, SEC No-Action Letter (pub. avail. Jan. 11, 1999).