



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

DIVISION OF
MARKET REGULATION

April 4, 2007

Sebastian R. Sperber
Cleary Gottlieb Steen & Hamilton LLP
55 Basinghall St.
London EC2V 5EH, England
United Kingdom

Re: Rule 14e-5 Relief for Certain Trading Activities of Financial Advisors
TP No. 07-53

Dear Mr. Sperber:

We are responding to your April 3, 2007 letter to James A. Brigagliano (the "April 3rd Letter"), as supplemented by telephone conversations with the staff of the Division of Market Regulation ("Division" or "Staff"), with regard to your request for exemptive relief under Rule 14e-5 of the Securities Exchange Act of 1934 ("Exchange Act"). Unless otherwise noted, capitalized terms in this letter have the same meaning as in your letter.

As you note in your letter, the U.S. Securities and Exchange Commission ("Commission") has granted relief for Financial Advisor's Affiliates¹ and Departments on other occasions in order to permit such persons to engage in Trading Activities during tender offers subject to Rule 14e-5 under the Exchange Act ("Rule 14e-5" or the "Rule"). Rule 14e-5 prohibits a covered person from directly or indirectly purchasing or arranging to purchase subject securities or any related securities except as part of the tender offer.² This prohibition applies from the time the offer is publicly announced until it expires. Rule 14e-5 defines a "covered person" as (i) the offeror and its affiliates, (ii) the offeror's dealer-manager and its affiliates, (iii) any advisor to the parties described in (i) and (ii) above whose compensation is dependent on the completion of the offer, and (iv) any person acting, directly or indirectly, in concert with any of the foregoing in connection with any purchase or arrangement to purchase any subject securities or any related securities. Rule 14e-5 would prohibit purchases or arrangements to purchase subject and related securities in the context of certain of the Trading Activities where the Financial Advisors are "covered persons" under the Rule.

¹ For purposes of our response, an "affiliate" is any person that directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, the Financial Advisor.

² The terms "subject securities" and "related securities" are defined in Rule 14e-5(c).

We find that it is appropriate in the public interest and consistent with the protection of investors to grant, and hereby grant, an exemption from Rule 14e-5 to permit the Financial Advisor's respective Affiliates and Departments to engage in purchases or arrangements to purchase subject and related securities subject to Rule 14e-5 while conducting the Trading Activities, if the following conditions are met:

1. The company that is the target of the offer ("subject company") is a "foreign private issuer" as defined in Rule 3b-4(c) of the Exchange Act;
2. The Financial Advisor reasonably believes that the subject company has a level of U.S. shareholding that would enable it to rely on the Tier II exemptive relief provided under Rule 14d-1(d) of the Exchange Act;
3. The Trading Activities are only conducted outside the United States;
4. The Trading Activities are consistent with the Financial Advisor's Affiliates' and Departments' normal and usual business practices, and are not conducted for the purposes of promoting or otherwise facilitating the offer, or for the purpose of creating actual, or apparent, active trading in, or maintaining or affecting the price of, the securities of the subject company;
5. The offer document discloses prominently the Financial Advisor's intention to conduct the Trading Activities;
6. Each of the Affiliates and Departments of the Financial Advisor that conduct the Trading Activities has no officers (or persons performing similar functions) or employees (other than clerical, ministerial or support personnel) who direct, effect or recommend transactions in the subject securities or related securities who also will be involved in providing the offeror or subject company in such transactions with financial advisory services or dealer-manager services;
7. The Financial Advisor has an affiliate that is registered as a broker-dealer under Section 15(a) of the Exchange Act;
8. The Trading Activities are permissible under, and will be conducted in accordance with, applicable law of the home jurisdiction, as defined in Rule 14d-1.³ The Financial Advisor and its Affiliates and Departments will also comply with any information barrier requirements imposed by applicable law of the home jurisdiction;

³ The term "home jurisdiction" is defined in the Instructions to paragraphs (c) and (d) of Rule 14d-1 as both the jurisdiction of the subject company's incorporation, organization or chartering and the principal foreign market where the subject company's securities are listed or quoted.

