State Street Corporation

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September 6, 2016

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

Via email: rule-comments@sec.gov

Re: Adviser Business Continuity and Transition Plans (File Number S7-13-16)

Dear Mr. Fields:

State Street Corporation ("State Street") appreciates the opportunity to comment on the Securities and Exchange Commission's ("SEC" or the "Commission") proposal to require SEC-registered investment advisers to adopt and implement written business continuity and transition plans which are reasonably designed to address operational and other risks related to a significant disruption in the investment adviser's operations.[1]

Headquartered in Boston, Massachusetts, State Street specializes in providing institutional investors with investment servicing, investment management and investment research and trading. With $27.786 trillion in assets under custody and administration and $2.301 trillion in assets under management as of June 30, 2016, State Street operates in more than 100 geographic markets worldwide.

Overall view on the proposal and recommendations

State Street supports the Commission's initiative to require the development of robust business continuity plans ("BCP") and transition plans for SEC-registered investment advisers. We support the Commission's principles-based approach to business continuity and its focus on the obligation of SEC-registered advisers to mitigate rather than eliminate operational disruptions. However, we have two broad recommendations:

[1] *SEC Adviser Business Continuity and Transition Plans*, 81 Fed. Reg. 43530 (July 5, 2016).

1. We recommend the Commission issue its new BCP requirements in the form of guidance for Rule 206(4)-7 of the Investment Advisers Act of 1940, rather than the proposed new Rule 206(4)-4.

2. We recommend any guidance or final rule indicate in the preamble that an SEC-registered adviser who can establish that a fund's service provider is prudentially regulated and is already subject to a wide variety of business continuity regulatory requirements satisfies the SEC's business continuity due diligence requirements.

Issuance of guidance instead of a new rule

As noted in the Commission's proposal, SEC-registered advisers are already subject to business continuity-related requirements under Rule 206(4)-7, as part of the Rule's adopting release which set a sound basis for BCP requirements. While we understand and support the Commission's intention to create more specific BCP and transition planning requirements, a new rule could lead to confusion, as SEC-registered advisers may believe they have two sets of obligations under both the release adopting Rule 206(4)-7 of the Investment Advisers Act of 1940, which already provides a sound basis for BCP requirements, and the new prospective Rule 206(4)-4. Guidance under the existing rule, rather than a new rule, would make navigating BCP obligations much more straightforward. State Street recommends that any changes to existing business continuity requirements be in the form of guidance to Rule 206(4)-7 rather than adopting a new rule 206(4)-4.

Custodial and related services for SEC-registered advisers

State Street is one of the world's largest providers of custody services to institutional investor clients, including SEC-registered advisers subject to the Commission's proposed rule. Global custody banks, such as State Street, employ a highly specialized business model focused on the provision of operational services to institutional investor clients which include asset owners, asset managers and official institutions. Custody services can be classified into three main categories including: core custody services, ancillary services, and other administrative services.

Core custody services include:

- safekeeping and record-keeping services (properly recording securities deposited, reconciling securities holdings, and segregating client securities from the custodian's own proprietary assets);
- asset servicing (income and tax processing services, corporate action processing services, securities valuation services, and reporting services);
- transaction processing and settlement (when a custody client engages in the purchase or sale of a security); and
- banking services (primarily the processing of payments and other transactions that result from client investment activities and the acceptance of cash deposits).

Custodians may also provide the following ancillary services and other custody-related administrative services:

- agency securities lending (facilitating the ability of clients to lend debt and equity securities in their securities accounts to other market participants in order to increase yield on their investment assets);
- foreign exchange (including the execution of FX spot and forward transactions and currency options); and
- other administrative services such as fund accounting and administrative services (generation and calculation of a fund's net asset value); transfer agency services (acting as the registrar of a fund, processing and recording subscriptions and redemptions, and acting as a reporting agent); collateral processing services (verifying the amount of the relevant credit exposure, calculating initial and variation margin requirements and executing margin calls); and outsourcing services (transaction management, cash management, record-keeping and accounting, data management, reconciliation and performance measurement and analysis).[2]

Business practices and regulatory framework for business continuity for prudentially regulated bank custodians

State Street has a robust written business continuity program which is subject to governance and oversight through a variety of executive management structures and committees, and is ultimately reviewed and approved by the Examining and Audit Committee of the Board of Directors.

This integrated and comprehensive business continuity program includes: an annual business impact analysis and risk assessment; incident management preparedness; scenario solutions, testing, sufficiency, and remediation for disruptions such as loss of a business facility, reduction of workforce, loss of business applications, internal or external dependency outage; and testing of applications. Formalized communication strategies for disruptions are also in place.

We engage in regular and frequent due diligence and other discussions related to business continuity with our institutional investor clients, and provide substantial information about our business continuity program to our clients for their regulatory and risk management purposes. State Street also provides a description of its business continuity program on our external website.[3] Additionally, our Corporate Continuity team is engaged with regulators, industry associations and international certification bodies to mature the program and ensure alignment with industry best practices.

Moreover, as a prudentially regulated bank, we are already operating under over a hundred business continuity requirements from US and non-US regulators. For example, some of the business continuity regulations and guidance State Street operates under are from the Australian Securities and Investments Commission, Austrian Financial Market Authority, Canadian Standards Association, Investment Industry Regulatory Organization of Canada, China

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[2] "The Custody Services of Banks." The Clearing House (July 2016). [White paper which describes the services provided by US banking organizations providing custody and related services.]

[3] http://www.statestreet.com/about/business-continuity.html

Banking Regulatory Commission, Autorité des marchés financiers, German Federal Financial Supervisory Authority (BaFin), Guernsey Financial Services Commission, Hong Kong Monetary Authority, Securities and Futures Commission, Reserve Bank of India, Central Bank of Ireland, Bank of Italy, Financial Services Agency- Japan, Jersey Financial Services Commission, Monetary Authority of Singapore, Swiss Federal Banking Commission, Bank of Thailand, United Kingdom ("UK") Financial Conduct Authority, UK Prudential Regulation Authority, US Federal Financial Institutions Examination Council, US Financial Industry Regulatory Authority, US National Futures Association, US Office of the Comptroller of the Currency, US Federal Reserve Bank, and US Commodity Futures Trading Commission.

Recommended approach to due diligence for prudentially regulated bank custodians

As articulated in the preamble, the Commission believes that an SEC-registered adviser should identify its critical service providers and review and assess how these service providers plan to maintain business continuity when faced with significant business disruptions and consider how this planning will affect the SEC-registered adviser's operations. Moreover, "the [SEC-registered] adviser generally should be aware of whether the service provider has a BCP and if that BCP provides alternatives, including backup plans, to allow it to continue providing critical services during a significant business disruption. If the service provider does not have a BCP or if its BCP does not provide for such alternatives, the [SEC-registered] adviser generally should consider alternatives for such crucial services, which may include other service providers or internal functions or processes that can serve as a backup or contingency for such critical services."[4]

We agree with the Commission that due diligence of service providers is a critical element of business continuity. As noted above, prudentially regulated service providers, such as custodians, are already subject to numerous business continuity regulations and guidance from a wide variety of US and non-US regulators. These extensive business continuity regulations applied to prudentially regulated custodians fully addresses the Commission's goals of ensuring effective and robust business continuity planning. Due diligence requirements mandated for SEC-registered advisers should be simplified by this high level of regulation of prudentially regulated custodians. Nevertheless, without clarification the Commission's proposal could result in substantial and duplicative due diligence exercises for both the SEC-registered adviser and its custody bank service provider.

State Street recommends that the Commission add language to the preamble of any guidance or final rule allowing SEC-registered advisers who establish that a fund's service provider is prudentially regulated and is already subject to a wide variety of business continuity regulatory requirements satisfies the SEC's business continuity due diligence requirements. Such an approach would greatly streamline and simplify the due diligence process for SEC-registered advisers, while fully meeting the Commission's public policy goals.

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[4] Federal Register page 43541.

Thank you for the opportunity to comment on the important matters raised within the Commission's proposed rule. State Street supports the Commission's initiative to create consistency in the business continuity plans of SEC-registered investment advisers but strongly recommends:

(1) issuing the proposed new requirements in the form of guidance for Rule 206(4)-7 rather than adopting a final new rule, and

(2) adopting language in the preamble of any guidance or final rule which allows an SEC-registered adviser who can establish that a fund's service provider is prudentially regulated and is already subject to a wide variety of business continuity regulatory requirements satisfies the due diligence mandate of the SEC's business continuity requirements.

Please feel free to contact me at [redacted] should you wish to discuss State Street's submission in further detail.

Sincerely,

Stefan M. Gavell