



THE MANITOBA
SECURITIES
COMMISSION

THE COMMODITY FUTURES ACT)
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Subsection 66(1)

Order No. 7451
May 8, 2018

**STATE STREET GLOBAL ADVISORS, LTD. and
SSgA FUNDS MANAGEMENT, INC.**

WHEREAS :

- (A) State Street Global Advisors, Ltd. (the **Principal Adviser**) and SSgA Funds Management, Inc. (the **Sub-Adviser** and, collectively with the Principal Adviser, the **Filers**) have applied to The Manitoba Securities Commission (the **Commission**) for an order, pursuant to subsection 66(1) of The Commodity Futures Act (the **CFA**), exempting the Sub-Adviser from the adviser registration requirement set forth in section 24(2) of the CFA (the **Adviser Registration Requirement**) allowing the Sub-Adviser, and any individual engaging in or holding himself or herself out as engaging in, the business of advising others as to trading in commodity futures contracts (collectively, the **Contracts**) on the Sub-Adviser's behalf (a **Representative**) to act as a sub-adviser to the Principal Adviser as to trading in Contracts in the Province of Manitoba subject to certain terms and conditions (the **Application**);
- (B) the Filers have represented to the Commission that:
1. The Principal Adviser is a corporation incorporated under the laws of Canada with its head office located in Montreal, Québec.
 2. The Principal Adviser is an indirect wholly owned subsidiary of State Street Corporation.
 3. The Principal Adviser is registered as a portfolio manager, exempt market dealer and investment fund manager under the securities legislation of all the provinces of Canada.
 4. The Principal Adviser is also registered as an adviser in Manitoba under the CFA, as commodity trading counsel and as commodity trading manager under the *Commodity Futures Act* (Ontario) in Ontario, and as a derivatives portfolio manager under the Québec *Derivatives Act* in Québec.
 5. The Principal Adviser provides discretionary portfolio management services to segregated accounts and pooled funds. The portfolio management services provided by the Principal Adviser to its clients include acting as an adviser with respect to both securities and Contracts where such investments are part of the investment program of such clients.
 6. The head office of the Sub-Adviser is in Boston, Massachusetts, U.S.A.
 7. The Sub-Adviser is an indirect wholly owned subsidiary of State Street Corporation.
 8. The Sub-Adviser is registered as an investment adviser under the *United States Investment Advisers Act of 1940* and as a commodity trading adviser with the United States Commodity Futures Trading Commission.

9. The Sub-Adviser is not registered in any capacity under the securities legislation of Manitoba or any other jurisdiction in Canada or under the CFA.
10. The Sub-Adviser provides trading advice services in respect of futures, options on futures and swaps to its clients generally traded on a U.S. Exchange and/or with a U.S. counterparty to certain of its clients.
11. Neither the Principal Adviser, nor the Sub-Adviser is in default of any requirements of securities or derivatives legislation in Manitoba.
12. The Adviser Registration Requirement prohibits a person or company from acting as an adviser, i.e. engaging in or holding himself, herself or itself out as engaging in, the business of rendering advice as to trading in the Contracts, unless such person or company is registered as an adviser under the CFA, or is registered as a partner or officer of a registered adviser and is acting on behalf of the adviser.
13. By providing trading advice services in respect of the Contracts, the Sub-Adviser is acting as an adviser in respect of the Contracts and, in the absence of being granted this Order, would be required to register as an adviser under the CFA when the Current Relief (as defined below) expires.
14. There is presently no rule or regulation under the CFA that provides an exemption from the Adviser Registration Requirement that is similar to the International Sub-Adviser exemption from the adviser registration requirement provided under section 8.26.1 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**).
15. In respect of clients in Manitoba, the Sub-Adviser acts as a sub-adviser to the Principal Adviser in respect of Contracts in reliance on a decision by the Commission dated as of May 8, 2013, granting an order, pursuant to section 66(1) of the CFA exempting the Sub-Adviser, and its Representatives, for a period of five years expiring on May 8, 2018, from the adviser registration requirement in paragraph 24(2) of the CFA, subject to certain terms and conditions (the **Current Decision**).
16. The Principal Adviser has entered into a written agreement with the Sub-Adviser setting out each of their duties and obligations with respect to the delegation of advisory services regarding Contracts (the **Sub-Advisory Agreement**).
17. As would be required under the international sub-adviser exemption set forth in section 8.26.1 of NI 31-103, adapted however for the purposes of advising with respect to Contracts:
 - (a) the obligations and duties of the Sub-Adviser are set out in a written agreement with the Principal Adviser;
 - (b) the Principal Adviser has entered into a written agreement with its clients on whose behalf investment advice is or portfolio management services are provided, agreeing to be responsible for any loss that arises out of the failure of the Sub-Adviser
 - (i) to exercise the powers and discharge the duties of its office honestly, in good faith and in the best interests of the registrant and each client of the registrant for whose benefit

the advice is or portfolio management services are to be provided, or


- (ii) to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances;
 - (c) the Sub-Adviser's head office or principal place of business is in a foreign jurisdiction;
 - (d) the Sub-Adviser is registered in a category of registration, or operates under an exemption from registration, under the securities legislation of the foreign jurisdiction in which its head office or principal place of business is located, that permits it to carry on the activities in that jurisdiction that registration as an adviser would permit it to carry on in the local jurisdiction; and
 - (e) the Sub-Adviser engages in the business of an adviser in the foreign jurisdiction in which its head office or principal place of business is located.
18. The Principal Adviser will deliver to its clients, as applicable, all applicable reports and statements under applicable securities, commodity futures and derivatives legislation.
19. Such clients must obtain all advice, information and give all instructions and directions through the Principal Adviser and may meet with the Sub-Adviser only if the Principal Adviser is present at all times.
- (C) Based on the foregoing, the Commission is of the opinion that it would not be prejudicial to the public interest to grant the order requested.

IT IS ORDERED:

1. **THAT**, pursuant to section 66(1) of the CFA, that the Sub-Adviser and its Representatives be exempted from the Adviser Registration Requirement and that the Sub-Adviser and its Representatives be authorized to act as a sub-adviser to the Principal Adviser as to trading in Contracts, under the Sub-Advisory Services Agreement; provided that at all the relevant times that such activities are engaged in:
- (a) The Principal Adviser will remain registered under the CFA as an adviser;
 - (b) The Sub-Adviser will remain registered as a Commodity Trading Adviser with the United States Commodity Futures Trading Commission;
 - (c) The Sub-Adviser is not registered in any capacity under the securities or commodity futures legislation of any jurisdiction in Canada or under the CFA.
 - (d) the obligations and duties of the Sub-Adviser will remain set out in a written agreement with the Principal Adviser;

- (e) the Principal Adviser will have entered into a written agreement with its clients on whose behalf investment advice is or portfolio management services are to be provided, agreeing to be responsible for any loss that arises out of the failure of the Sub-Adviser: (i) to exercise the powers and discharge the duties of its office honestly, in good faith and in the best interests of the registrant and each client of the registrant for whose benefit the advice is or portfolio management services are to be provided, or (ii) to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances;
 - (f) The Sub-Adviser's head office or principal place of business will remain in a foreign jurisdiction;
 - (g) The Sub-Adviser will continue to engage in the business of an adviser in the foreign jurisdiction in which its head office or principal place of business is located;
 - (h) The Principal Adviser will deliver to its clients, as applicable, all applicable reports and statements under applicable securities, commodity futures and derivatives legislation; and
 - (i) Such clients must obtain all advice, information and give all instructions and directions through the Principal Adviser and may meet with the Sub-Adviser only if the Principal Adviser is present at all times.
2. **THAT** this Order will terminate on the earliest of:
- (a) the expiry of any transition period as may be provided by law, after the effective date of the repeal of the CFA;
 - (b) six months, or such other transition period as may be provided by law, after the coming into force of any amendment to Manitoba commodity futures law or Manitoba securities law that affects the ability of any Sub-Adviser to act as a sub-adviser to the Principal Adviser in respect of the services rendered pursuant to the Sub-Advisory Services Agreement; and
 - (c) five years after the date of this Order.
3. **THAT** the fee for the Order is \$650.00.

BY ORDER OF THE COMMISSION



Director