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Department of Justice

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District of Massachusetts

FOR IMMEDIATE RELEASE

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State Street Bank to Pay \$382 Million to Settle Allegations of Fraudulent Foreign Currency Exchange Practices

BOSTON – Carmen M. Ortiz, the United States Attorney for the District of Massachusetts, Andrew J. Ceresney, Director of the Division of Enforcement for the Securities and Exchange Commission (SEC), and Thomas E. Perez, the United States Secretary of Labor (DOL), announced today that State Street Bank and Trust Company, a Massachusetts-based financial institution, agreed to pay a total of at least \$382.4 million, including \$155 million to the Department of Justice (DOJ), \$167.4 million in disgorgement and penalties to the SEC, and at least \$60 million to ERISA plan clients in an agreement with the DOL, to settle allegations that it deceived some of its custody clients when providing them with indirect foreign currency exchange (FX) services.

As part of the settlement with the Department of Justice, State Street, a Massachusetts-based financial company, admitted that contrary to its representations to certain custody clients, its State Street Global Markets division (SSGM) generally did not price FX transactions at prevailing interbank market rates. Instead, State Street admitted that SSGM executed FX transactions by applying a predetermined, uniform mark-up (if the custody client was a FX purchaser) or mark-down (if the custody client was an FX seller) to the prevailing interbank rate for FX. State Street is also alleged to have falsely informed custody clients that it provided “best execution” on FX transactions, that it guaranteed the most competitive rates available on FX transactions, and that it priced FX transactions based on a variety of factors when, in fact, prices were largely driven by hidden mark-ups designed to maximize State Street’s profits.

“State Street’s custody clients, many of whom were public pension funds, financial institutions, and non-profit organizations, had a right to expect that State Street would execute transactions in an honest and forthright manner,” said United States Attorney Carmen M. Ortiz. “Instead, State Street executed FX transactions in a manner that enabled it to reap substantial profits at the expense of its custody clients. Today’s settlement reflects a significant and appropriate penalty for State Street’s deceptive conduct.”

“State Street misled custody clients about how it priced their trades and tucked its hidden markups into a corner where they were unlikely to notice,” said Andrew J. Ceresney, Director of the SEC’s Division of Enforcement. “Financial institutions cannot mislead their customers about their trading costs.”

“When financial institutions charged with safeguarding retirement plan assets put the firm’s interests ahead of the best interest of their plan clients, or fail to candidly disclose fees, we will hold them accountable.

Retirement security is a pillar of middle class life, and the Labor Department and our federal partners are committed to using our authority to protect it," said Secretary of Labor Thomas E. Perez.

Pursuant to the proposed settlements and other agreements, State Street will pay a total of \$382.4 million, of which \$155 million will be paid as a civil penalty to the United States to resolve the allegations made by the Department of Justice that State Street violated the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA), by committing fraud affecting financial institutions. The United States' investigation arose from whistleblowers who filed a declaration pursuant to FIRREA.

The SEC has approved a separate agreement to settle the SEC's investigation concerning State Street's indirect FX services. Under the terms of the agreement, the Commission will enter an administrative order against State Street, only after the U.S. District Court gives final approval to State Street's proposed settlement with private plaintiffs in pending securities class action lawsuits concerning its indirect FX pricing service. The administrative order will find that State Street violated Section 34(b) of the Investment Company Act of 1940 (Investment Company Act) and caused violations of Section 31(a) of the Investment Company Act and Rule 31a-1(b) thereunder, by providing its registered investment company (RIC) clients with trade confirmations and monthly transaction reports that were materially misleading in light of State Street's representations about how it priced FX transactions. Under the terms of the order, State Street will be required to disgorge \$75 million in ill-gotten gains and \$17.4 million in prejudgment interest, to be paid to RIC clients, and also pay the SEC a civil penalty of \$75 million.

State Street is simultaneously resolving DOL's claims under the Employee Retirement Income Security Act (ERISA) by agreeing to pay at least \$60 million to State Street's ERISA plan customers who, DOL found, sustained losses in connection with the conduct alleged above. This amount will be distributed to ERISA plan customers in conjunction with the settlement of certain private class action lawsuits. DOL alleges in the settlement that State Street made false or misleading representations concerning certain FX trades, and concealed from its plan customers how it priced those trades. In the settlement State Street represents that it now makes and will continue to make detailed disclosures to its customers with respect to its FX pricing, and that it now refrains and will continue to refrain from making representations regarding its FX pricing that are not accurate.

State Street will pay an additional \$147.6 to resolve private class action lawsuits filed by the Bank's customers alleging similar misconduct.

The case was handled by Assistant U.S. Attorneys Justin O'Connell and Abraham George of Ortiz's Civil Division. The SEC's investigation was conducted by Senior Enforcement Counsels Sue Curtin, Cynthia Storer Baran and Andrew Palid, Senior Trial Counsel Deena Bernstein, and Assistant Regional Director Celia Moore, all of the Boston Regional SEC Office, and Stuart Jackson of the Division of Economic and Risk Analysis. The DOL's case was investigated by the Employee Benefits Security Administration's Boston Regional Office with assistance from Senior Trial Attorneys Suzanne Reilly, Nathan Goldstein, and Nathan Henderson, and ERISA Counsel Marjorie Butler.

Attachment(s):

[Download Settlement Agreement](#)

Topic(s):

StopFraud

Component(s):

[USAO - Massachusetts](#)

Updated July 28, 2016

