



Case M1445G

Proposed acquisition of State Street (Guernsey) Limited and State Street (Jersey) Limited by TMF Group BV

Decision – Preliminary Review

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Summary

1. TMF Group BV (**TMF**) proposes to acquire State Street (Guernsey) Limited and State Street (Jersey) Limited (together **State Street**) from State Street Southern Africa Proprietary Limited, AGH Company LLC and State Street Investment Holdings (Jersey) Limited (the **Sellers**).
2. The transaction has been notified to the Guernsey Competition and Regulatory Authority (**GCRA**) pursuant to Section 16(1) of the Competition (Guernsey) Ordinance 2012 (the **2012 Ordinance**).
3. The GCRA has determined that the proposed acquisition will not lead to a substantial lessening of competition in any relevant market and hereby approves the notified transaction.

The Notified Transaction

4. On 24 January 2019, the GCRA received a joint application from TMF and the Sellers for the proposed acquisition of State Street (together, the Notifying Parties).
5. As the Purchaser is a qualifying 'financial institution or credit institution'¹, the application for approval was made by way of preliminary review in Guernsey in accordance with regulation 4(1) of the Competition (Prescribed Mergers and Acquisitions) (Guernsey) Regulations, 2012.
6. The Channel Islands Competition and Regulatory Authorities² (**CICRA**) registered the application on its website with a deadline for comments of 31 January 2019. No submissions were received.

The Parties

7. TMF is a Netherlands registered company (company number 34210962). In the financial year ended 31 December 2017, TMF's income in Guernsey was £³. For nine months in 2018 (January to September), TMF's income in Guernsey was £⁴.
8. The sellers are State Street Southern Africa Proprietary Limited (2003/025952/07), AGH Company LLC (Delaware File No 4767700,) and State Street Investment Holdings (Jersey) Limited (Registration Number 94909).

¹ 'Credit Institution' means a deposit taking business as defined in section 3 of the Banking Supervision (Bailiwick of Guernsey) Law 1994; 'Financial Institution' means a controlled investment business as defined in the Protection of Investors (Bailiwick of Guernsey) Law 1987 and a financial services business as defined in the Registration of Non-Regulated Financial Services Businesses (Bailiwick of Guernsey) Law 2008

² The JCRA and GCRA co-ordinate their activities with respect to competition law enforcement in the Channel Islands. For the purposes of this document, the JCRA and GCRA are together referred to as CICRA, and all references to CICRA should therefore be read as references to each of the JCRA and GCRA unless the context otherwise requires.

³ Redacted.

⁴ Redacted.

9. The target companies are State Street (Jersey) Limited (Company Number 36615) and State Street (Guernsey) Limited (Company Number 36571). In the financial year ended 31 December 2018, State Street (Guernsey) Limited's income in Guernsey was £<⁵.

Guernsey: Requirement for GCRA Approval

10. Pursuant to s.61(1)(b) of the 2012 Ordinance, a merger or acquisition occurs for the purposes of that Ordinance when: *"an undertaking [...] directly or indirectly acquires or establishes control of another undertaking or the business of another undertaking"*.
11. As a result of the transaction, TMF will acquire the entire share capital of State Street. The notified transaction is therefore a merger, as defined by the 2012 Ordinance.
12. Under Regulation 2(a) and (b) of the Competition (Prescribed Mergers and Acquisitions) (Guernsey) Regulations 2012 (the **Regulations**), an undertaking is involved in a merger or acquisition if it is acquiring, or being acquired by, another undertaking.
13. Under s.13(1) of the 2012 Ordinance, certain mergers must be notified to, and approved by the GCRA before they can be put into effect. Regulation 1 of the Regulations provides that mergers must be notified to the GCRA for clearance if:
- a. The combined Channel Islands turnover of the undertakings involved in the merger exceeds £5 million, and
 - b. Two or more of the undertakings involved in the merger have Guernsey turnover exceeding £2 million.
14. According to information provided by the Notifying Parties, the combined and individual applicable turnover in the Channel Islands and Guernsey exceeds these thresholds (see above). On this basis, the GCRA's approval is required before the acquisition is executed.

Effect on Competition

15. Under s.13 of the 2012 Ordinance, the GCRA must determine if the merger would substantially lessen competition within any market in Guernsey for goods or services. To this end, CICRA will identify the markets which are likely to be affected by the merger and then assess whether competition in these markets will be substantially lessened⁶.
16. Both TMF and State Street are active in fund management, depositary and trust and corporate services. However, as discussed below, when considering the competitive effect of the proposed acquisition, reaching a definitive conclusion on the scope of the relevant product market is not

⁵ Redacted

⁶ In many cases, a market may already have been investigated and defined by CICRA or another competition authority. CICRA may take note of market definitions applied by other competition authorities, although these are not precedents. Competition conditions may change over time, changing the market definition. Market definition will always depend on the prevailing facts.

necessary because the GCRA concludes that there is unlikely to be a substantial lessening of competition in any potential relevant product market.

17. For similar reasons, a definitive position concerning the precise scope of the relevant geographic market is not necessary because no matter how the market is defined, the proposed acquisition is unlikely to result in a substantial lessening of competition in Guernsey or any part thereof.
18. The GFSC supervises and regulates the banking, fiduciary, insurance and investments sectors in Guernsey. According to information available provided by the Merging Parties and from the GFSC, the Merging Parties both hold investment licences with a combined total of 33 out of a total of 640 such licences issued in Guernsey (5.2%). In terms of value, this represents 11.9% of the total value of licensed investment schemes in Guernsey.
19. On this basis, it can be presumed that market share held by the Merging Parties post-transaction will not lead to a substantial lessening of competition⁷.

Decision

20. Based on the preceding analysis the GCRA concludes that the acquisition will not substantially lessen competition within any market in Guernsey for goods or services.
21. The GCRA is also satisfied that the merger would not be to the prejudice of:
 - (a) consumers or any class or description thereof;
 - (b) the economic development and well-being of the Bailiwick; or
 - (c) the public interest.
53. The merger is therefore approved under s.13 of the 2012 Ordinance.

06 February 2019

By Order of the Board of the GCRA

⁷ EC Guidelines on the assessment of horizontal mergers under Council Regulation 139/2004, para. 18, states that an indication that where the undertakings concerned have a market share not exceeding 25%, it can be presumed not to impede effective competition.