

including a majority of directors who are not "interested persons" under the Act, shall be required for the initial and subsequent approvals of PNC Bank's service as lending agent for the Affiliated Lending Fund pursuant to the Program, for the institution of all procedures relating to the Program as it relates to the Affiliated Lending Fund, and for any periodic review of loan transactions for which PNC Bank acted as lending agent pursuant to the Program.

In addition, Trust Applicants agree that any order of the SEC granting the requested relief will be subject to the following conditions:

3. A majority of the board of directors of a Lending Fund (including a majority of the directors who are not "interested persons" within the meaning of the Act of such Lending Fund), will initially and at least annually thereafter determine that the investment of securities lending cash collateral in Shares of the Trust is in the best interests of the shareholders of the Lending Fund.

4. Investment in Shares of the Trust by a particular Lending Fund will be consistent with such Lending Fund's investment objectives and policies.

5. Investment in Shares of the Trust by a particular Lending Fund will be in accordance with the guidelines regarding the investment of securities lending cash collateral specified by the Lending Fund in the Customer Agreement. A Lending Fund's cash collateral will be invested in a particular Investment Fund only if that Investment Fund invests in the types of instruments that the Lending Fund has authorized for the investment of its cash collateral.

6. Each Investment Fund that uses the amortized cost method of valuation as defined in rule 2a-7 under the Act will maintain a portfolio that complies with the maturity, quality, and diversification requirements of rule 2a-7 (c)(2), (c)(3), (c)(4), and (d). A Lending Fund may only purchase Shares of an Investment Fund using the amortized cost method of valuation if the Adviser determines on an ongoing basis that such Investment Fund is in compliance with paragraphs (c)(2), (c)(3), (c)(4), (c)(6), and (d) of rule 2a-7. The Adviser shall preserve for a period not less than six years from the date of determination, the first two years in an easily accessible place, a record of such determination and the basis upon which such determination was made. This record will be subject to examination by the SEC and the staff.

7. The Trust will comply as to each Investment Fund with the requirements of sections 17 (a), (d), and (e) and 18 of

the Act as if the Trust were a registered open-end investment company. With respect to all redemption requests made by a Lending Fund, the Trust will comply with section 22(e) of the Act. The Adviser shall, subject to approval by the Trustee, adopt procedures designed to ensure that the Trust complies with section 17 (a), (d), and (e), 18, and 22(e) of the Act. The Adviser will also periodically review and periodically update as appropriate such procedures and will maintain books and records describing such procedures, and maintain the records required by rules 31a-1(b)(1), 31a-1(b)(2)(ii), and 31a-1(b)(9) under the Act. All books and records required to be made pursuant to this condition will be maintained and preserved for a period of not less than six years from the end of the fiscal year in which any transaction occurred, the first two years in an easily accessible place, and will be subject to examination by the SEC and the staff.

8. The net asset value per share with respect to Shares of the Trust will be determined separately for each Investment Fund by dividing the value of the assets belonging to the Investment Fund, less the liabilities of that Investment Fund, by the number of Shares outstanding with respect to the Investment Fund. Each Investment Fund that uses the amortized cost method of valuation as defined in rule 2a-7 under the Act will comply with rule 2a-7(c)(6), except that the Adviser, subject to the approval by the Trustee, shall adopt the procedures described in that provision and the Adviser shall monitor such procedures and take such other actions as are required to be or may be taken by a board of directors pursuant to that provision.

9. The Shares of the Trust will not be subject to a sales load, redemption fee, any asset-based sales charge, or service fee (as defined in rule 2830(b)(9) of the Conduct Rules of the National Association of Securities Dealers).

10. Each Lending Fund will purchase and redeem Shares of the Trust as of the same time and at the same price, and will receive dividends and bear its proportionate share of expenses on the same basis, as other shareholders of the Trust. A separate account will be established in the shareholder records of the Trust for the account of each applicable Lending Fund.

For the Commission, by the Division of Investment Management, under delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 97-14617 Filed 6-4-97; 8:45 am]

BILLING CODE 8010-01-M

## SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC-22694; 812-10584]

### State Street Research Financial Trust, et al.; Notice of Application

May 30, 1997.

**AGENCY:** Securities and Exchange Commission (the "SEC").

**ACTION:** Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

**APPLICANTS:** State Street Research Financial Trust (the "Trust"), State Street Research Portfolios, Inc. (the "Company"), State Street Research & Management Company ("SSRM"), State Street Research Investment Services, Inc. ("SSRIS"), and GFM International Investors Limited ("GFM").

**RELEVANT ACT SECTIONS:** Order requested under section 17(b) to exempt applicants from the provisions of section 17(a).

**SUMMARY OF APPLICATION:** Applicants seek an order to permit a reorganization between a series of the Trust and a series of the Company.

**FILING DATES:** The application was filed on March 25, 1997. Applicants have agreed to file an amendment during the notice period, the substance of which is incorporated herein.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 19, 1997, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants: the Trust, SSRM, and SSRIS, One Financial Center, Boston, Massachusetts 02111; the Company, One Madison Avenue, New York, New York 10010; and GFM, 5 Upper Street Martins Lane, London WC2H 9EA, England.

**FOR FURTHER INFORMATION CONTACT:** Elaine M. Boggs, Senior Counsel, at (202) 942-0572, or Mercer E. Bullard, Branch Chief, at (202) 942-0564

(Division of Investment Management, Office of Investment Company Regulation).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

### Applicants' Representations

1. The Trust is a Massachusetts business trust registered under the Act as an open-end management investment company. The Trust consists of four series, including the State Street Research Government Income Fund (the "Acquiring Fund"). The Company, which was originally organized under the name MetLife Portfolios, Inc., is a Maryland corporation registered under the Act as an open-end management investment company. The Company consists of two series, including the State Street Research International Fixed Income Fund (the "Acquired Fund").

2. SSRM serves as the Acquiring Fund's and, as of March 1, 1997, the Acquired Fund's investment adviser. SSRIS serves as the distributor of the Acquired Fund and served as investment adviser to the Acquired Fund until March 1, 1997. GFM serves as the subadviser for the Acquired Fund. SSRM, SSRIS, and GFM are registered as investment advisers under the Investment Advisers Act of 1940 and are indirect wholly-owned subsidiaries of Metropolitan Life Insurance Company ("MetLife"). As of December 31, 1996, MetLife and its affiliates held a record 72% of the outstanding shares of the Acquired Fund. In some cases, any of MetLife and its affiliates may hold or share voting discretion, investment discretion, or both with respect to these shares.

3. The Acquiring and Acquired Funds both offer four classes of shares. The classes of shares of the Acquiring Fund have identical arrangements with respect to the imposition of initial and contingent deferred sales charges and distribution and service fees as the comparable classes of shares of each of the Acquired Funds.

4. The investment objective of the Acquired Fund is to seek a high level of return by investing primarily in high quality debt securities of non-U.S. issuers. The investment objective of the Acquired Fund is not fundamental and may be changed by the board of directors of the Company without a shareholder vote. The investment objective of the Acquiring Fund is to seek high current income and under normal circumstances the Acquiring Fund will invest at least 65% of the

value of its total assets in securities that are issued or guaranteed by the U.S. Government, U.S. Government agencies or instrumentalities, or certain mixed-ownership Government corporations. The investment objective of the Acquiring Fund is fundamental and may not be changed without a shareholder vote.

5. The Trust, on behalf of the Acquiring Fund, and the Company, on behalf of the Acquired Fund, will enter into an agreement and plan of reorganization, which was approved by the board of directors of the Company on February 4, 1997 and by the board of trustees of the Trust on November 6, 1996. The boards of the Acquiring and Acquired Funds, including the members who are not "interested persons" as defined by the Act, found that the reorganization would be in the best interest of the Acquiring and Acquired Funds and their shareholders, respectively, and that the interests of the existing shareholders of the respective Funds will not be diluted as a consequence thereof. Each board considered a number of factors, including the efficiencies resulting from combining the operations of a small fund with a large fund;<sup>1</sup> the performance of the Acquired Fund; the size, stability, and strength of the Acquiring Fund; and that each Fund uses the same distribution and multiple class structure and sales load structure. In addition, in reaching its determination that the reorganization was in the best interest of the Funds' shareholders, the boards also considered the differences in the investment objectives of each Fund and concluded that greater portfolio diversification could result from a larger asset base. Applicants expect that greater diversification from a portfolio of securities of both U.S. and non-U.S. issuers would be beneficial to Acquired Fund shareholders because it may reduce the risk associated with a portfolio of securities issued only by non-U.S. issuers.

6. Upon consummation of the proposed reorganization (the "Closing"), the Acquiring Fund will acquire all of the assets of the Acquired Fund (subject to the assumption by the Acquiring Fund of all liabilities of the Acquired Fund which are reflected on an unaudited statement of assets and liabilities on the Valuation Date (as defined below)) in exchange for Class A, B, C, and D shares of the Acquiring Fund. The number of Class A, B, C, and

D shares to be issued to the Acquired Fund will be determined by dividing (a) the aggregated net assets in each class of shares of the Acquired Fund by (b) the net asset value per Class A, B, C, and D share, respectively, of the Acquiring Fund, each computed as the close of business on the business day next preceding the Closing (the "Valuation Date"). The Acquired Fund will liquidate and distribute shares of the Acquiring Fund to its shareholders at or as soon as practicable after the Closing. Holders of the Acquiring Fund shares acquired as a result of the reorganization will continue to be subject to a contingent deferred sales charge upon subsequent redemption to the same extent as if they had continued to hold shares of the Acquired Fund. The class of Acquiring Fund shares distributed to each shareholder of the Acquired Fund upon the liquidation of the Acquired Fund will correspond to the class of shares of the Acquired Fund held by such shareholder immediately prior to the reorganization.

7. At or prior to the Closing, the Acquired Fund shall declare a dividend or dividends which shall have the effect of distributing to the shareholders of the Acquired Fund all of the Fund's investment company taxable income for all taxable years ending on or prior to the Closing (computed without regard to any deduction for dividends paid) and all of its net capital gain realized (after reduction for any capital loss carry-forward) in all taxable years ending on or prior to the Closing.

8. The proposed reorganization is subject to approval by an affirmative vote of the holders of a majority of the outstanding shares entitled to vote of the Acquired Fund. Approval will be solicited pursuant to a prospectus/proxy statement, which was sent to shareholders of the Acquired Fund on March 17, 1997. Each prospectus/proxy statement includes pertinent financial information and projected expense ratios of the combined funds. A shareholder meeting is scheduled to be held on May 30, 1997.

9. The Acquiring and Acquired Funds each will bear half of the costs of entering into and carrying out the provisions of the plan of reorganization, whether or not the reorganization is consummated. In determining this allocation, the boards of both Funds determined that, in the absence of any special advantage of one Fund relative to the other, an equal split of expenses was appropriate, and that any potential benefits to SSRM, SSRIS, GFM or any of their affiliates as a result of the reorganization were outweighed by the

<sup>1</sup> As of October 31, 1996, the Acquired and Acquiring Funds had net assets of approximately \$33 million and \$702 million, respectively.

potential benefits to each Fund and its shareholders.

10. The consummation of each reorganization is subject to certain conditions, including that the parties shall have received from the SEC the order requested in the application, and the receipt of an opinion of tax counsel to the effect that upon consummation of each reorganization and the transfer of substantially all the assets of each Acquired Fund, no gain or loss will be recognized by the Acquired or Acquiring Funds or their shareholders as a result of the reorganization. Applicants will not amend, waive, or supplement any term of the plan of reorganization without the prior approval of the SEC if such amendment, waiver, or supplement would materially alter the plan from the description of the plan in the application.

#### Applicants' Legal Analysis

1. Section 17(a) of the Act provides, in pertinent part, that it is unlawful for any affiliated person of a registered investment company, or any affiliated person of such an affiliated person, acting as principal, knowingly to sell or purchase securities to or from such registered company.

2. Section 2(a)(3) of the Act defines the term "affiliated person" of another person to include, in pertinent part, (a) any person directly or indirectly owning, controlling, or holding with power to vote 5% or more of the outstanding voting securities of such other person, (b) any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote by such other person, (c) any person directly or indirectly controlling, controlled by, or under common control with such other person, and, (d) if such other person is an investment company, any investment adviser thereof.

3. Rule 17a-8 under the Act exempts from the prohibitions of section 17(a) mergers, consolidations or purchases or sales of substantially all of the assets of registered investment companies that are affiliated persons solely by reason of having a common investment adviser, common directors, and/or common officers, provided that certain conditions set forth in the rule are satisfied. Applicants state they may not be able to rely on rule 17a-8 because MetLife and its affiliates hold or share direct or indirect ownership of more than 5% of the outstanding shares of the Acquired Fund, that the adviser of the Acquiring Fund is a wholly-owned subsidiary of MetLife which, therefore, could be deemed to control the Acquiring Fund, and that the Acquiring

Fund, therefore, may be deemed an affiliated person of an affiliated person of the Acquired Fund, and vice versa, for reasons not based solely on their common adviser.

4. Section 17(b) of the Act provides that the SEC may exempt a transaction from the prohibitions of section 17(a) if evidence establishes that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

5. Applicants submit that the terms of the proposed reorganization satisfy the standards set forth in section 17(b). Applicants note that the exchange of the Acquired Fund's assets and liabilities for shares of the Acquiring Fund will be based on each Fund's relative net asset value, and that the proposed reorganization is expected to be effected on a tax-free basis, so that neither the Acquiring Fund, the Acquired Fund, nor the shareholders of the Acquired Fund will recognize taxable gains or losses as a result of the proposed reorganization.

6. Applicants submit that the terms of the proposed reorganization are fair and reasonable and do not involve overreaching on the part of any person concerned and that the proposed reorganization is consistent with the policies of the Acquiring and Acquired Funds.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**Margret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 97-14692 Filed 6-4-97; 8:45 am]

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#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-38699; File No. 4-208]

#### Intermarket Trading System; Order Approving Twelfth Amendment to the Restated ITS Plan Relating to Amending the Pre-Opening Application, Deleting Text No Longer Applicable, and Making Technical Amendments

May 30, 1997.

#### I. Introduction

On January 31, 1997, the Intermarket Trading System ("ITS") submitted to the Securities and Exchange Commission

("Commission") an amendment to the Restated ITS Plan ("Plan") pursuant to Section 11A of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 11Aa3-2 thereunder<sup>2</sup> to amend the Pre-Opening Application, to delete text no longer applicable, and to make technical amendments.<sup>3</sup> The proposed plan amendment was published for comment in Securities Exchange Act Release No. 38520 (April 17, 1997), 62 FR 19846 (April 23, 1997). No comments were received on the proposal. For the reasons discussed below, the Commission is approving the proposal.

Participants to the Plan include the American Stock Exchange, Inc. ("Amex"), the Boston Stock Exchange, Inc. ("BSE"), the Chicago Board Options Exchange, Inc. ("CBOE"), the Chicago Stock Exchange, Inc. ("CHX"), the Cincinnati Stock Exchange, Inc. ("CSE"), the National Association of Securities Dealers, Inc. ("NASD"), the New York Stock Exchange, Inc. ("NYSE"), the Pacific Stock Exchange, Inc. ("PSE"), and the Philadelphia Stock Exchange, Inc. ("PHLX").

#### II. Description

The purpose of the proposed changes to the Plan is amend the Pre-Opening Application, to delete text relating to the NASD Pilot Phase and the ITS/Computer Assisted Execution System ("CAES") Linkage, and the National Security Trading System (NSTS)/ITS Automated Linkage, which by their terms are no longer applicable, and to make technical amendments. The current Pre-Opening Application sections of the Plan trigger the use of the Pre-Opening Application whenever an "indication of interest" (i.e., an opening price range) is sent to the Consolidated Tape Association ("CTA") Plan Processor prior to the opening of trading in the relevant security or prior to reopening of trading in the relevant security following the declaration of a trading halt for certain defined reasons, even if the anticipated opening or reopening price is not greater than the "applicable price change." The current Pre-Opening Application sections provide that the Pre-Opening Application applies when an indication

<sup>1</sup> 15 U.S.C. 78k-1.

<sup>2</sup> 17 CFR 240.11Aa3-2.

<sup>3</sup> The ITS, a communications and order routing network linking eight national securities exchanges and the electronic over-the-counter ("OTC") market operated by the National Association of Securities Dealers, Inc. ("NASD"), is a National Market System ("NMS") plan approved by the Commission pursuant to Section 11A of the Act and Rule 11Aa3-2 thereunder. The ITS was designed to facilitate intermarket trading in exchange-listed equity securities based on current quotation information emanating from the linked markets.