



## **DETERMINATION OF MERGER NOTIFICATION M/10/006 -**

### **BNY Mellon/GIS**

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#### **Section 21 of the Competition Act 2002**

#### **Acquisition by Bank of New York Mellon of PNC Global Investment Servicing Inc.**

**Dated 22 March 2010**

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#### **Introduction**

1. On 26 February 2010, in accordance with Section 18(1) of the Competition Act 2002 ("the Act"), the Competition Authority ("the Authority") received a notification of a proposed transaction whereby Bank of New York Mellon ("BYN Mellon") would acquire 100% of the shares of PNC Global Investment Servicing, Inc. ("GIS") from the PNC Financial Services Group, Inc. ("PNC Group").

#### **The Undertakings Involved**

##### *The Acquirer*

2. BNY Mellon is a global financial services company providing asset management and wealth management services, asset servicing, issuer services, clearing services and treasury services. BNY Mellon, headquartered in New York, New York, U.S.A. was established in 2007 from the merger of Mellon Financial Corporation and The Bank of New York Company, Inc.
3. Within the State, BNY Mellon provides financial services through subsidiaries or affiliates as follows: banking and corporate trust services (The Bank of New York Mellon (Ireland) Limited), clearing services (Pershing Securities International Limited), custody and trustee services (BNY Mellon Trust Company (Ireland) Limited), fund administration services (BNY Mellon Fund Services (Ireland) Limited) and fund management services (BNY Mellon Global Management Limited and Alcentra Management (Ireland) Limited).

##### *The Target*

4. GIS is wholly owned by PNC Group, a global financial services company headquartered in Pittsburgh Pennsylvania U.S.A.<sup>1</sup> GIS is a global provider of custody, fund accounting, transfer agency and outsourcing services for asset managers and fund advisers.

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<sup>1</sup> PNC Group also has approximately 35 per cent voting rights in BlackRock, a global provider of investment management, risk management and advisory services to institutional, intermediary and individual investors.

5. Within the State, GIS provides custody services and fund administration services through its subsidiaries PNC Global Investment Servicing (Europe) Ltd. and PNC International Bank Ltd.<sup>2</sup>

### **Third Party Submissions**

6. No submissions were received.

### **Analysis**

7. The proposed transaction concerns competition in the provision of the custody services and fund administration services to providers of fund management services.
8. Fund management involves the provision of investment advice and the implementation of advice as delegated by the relevant client.<sup>3</sup>
9. The provision of fund management services requires custody services and fund administration services. Domestic regulations require that Irish domiciled funds must obtain custody and fund administration services from Irish-based providers.
10. Most major global providers of custody services and fund administration services now have operations in Ireland. The parties advise that in many instances fund promoters select custody and fund administration service providers in Ireland on the basis of their worldwide reputation and standing.
11. Switching by fund managers does not appear costly or difficult and, as presented by the parties, fund managers will frequently switch providers of custody services and fund administration services. Furthermore, it is also the case that the Financial Regulator has put in place procedures to facilitate switching.
12. The parties submit that contracts between fund managers and custodians and/or fund administrators are [generally terminable on reasonably short notice (typically 90 days and in any event generally no longer than six months)].
13. There is a horizontal overlap globally and within the State in the activities of BNY Mellon and GIS to the extent that both are involved in the provision of custody services and fund administration services.<sup>4</sup>

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<sup>2</sup> Another Irish GIS subsidiary, Riverside Pension Plan Limited, is the sole corporate trustee of the PNC Global Investment Services Pension Scheme and does not provide any services to third parties.

<sup>3</sup> As defined by the European Commission in Cases COMP/M.5580 BlackRock/Barclays Investors UK Holdings page 3 and COMP/M.3894 – Unicredito/HVB page 7.

<sup>4</sup> There is no present vertical relationship, between GIS and BNYMellon as regards the latter's fund management activities. In any event there are not likely to be vertical competition concerns arising from the proposed transaction given (i) the range of alternative suppliers of custody and financial administration and (ii) the range of alternative purchasers, i.e. suppliers of fund management services. Also, as submitted by the parties, it would not be unusual for a vertically integrated undertaking to out-source some or all custody or fund administration services.

### *Custody Services*

14. Custody services involve safekeeping of assets, presentation of securities for, and reception of securities from, clearing/settlement platforms, income and dividend processing, arranging of withholding tax relief and tax reclaim, and acting as a trustee of mutual funds.
15. Data supplied by the parties<sup>5</sup> indicates that BNY Mellon's current global market share for custody services is approximately 22% and the global market share for GIS is less than 1%. This does not indicate competition concerns will likely arise post-transaction in the global market for custody services.
16. Within the State, data supplied by Lipper<sup>6</sup> indicates market shares for custody services of approximately 25% for BNY Mellon and approximately 5% for GIS. The combined post-transaction market share within the State would be approximately 30%.
17. Globally and within the State BNY Mellon will continue to face strong competition, post-transaction, from alternative suppliers of custody services. In particular, within the State there will remain strong competition from suppliers including State Street Custodial Services, JP Morgan, Bank of Ireland Securities and Brown Brothers Harriman.
18. The Authority considers that given the number of competitors present and the strong buying power of customers, the proposed transaction is not likely to raise competition concerns in relation to custody services in the State.

### *Fund Administration*

19. Fund administration includes accounting services and net asset valuations, share registration and taxation services, transfer agency, record keeping services, and portfolio reporting services.
20. Data supplied by the parties<sup>7</sup> indicates that BNY Mellon's current global market share for fund administration services is approximately 7% and the global market share for GIS is approximately 3%. This does not indicate competition concerns will likely arise post-transaction in the global market for fund administration services.
21. Within the State, data supplied by Lipper<sup>8</sup> indicates market shares for fund administration services of approximately 25% for BNY Mellon and approximately 5% for GIS. The combined post-transaction market share within the State would be approximately 30%.
22. Globally and within the State BNY Mellon will continue to face strong competition, post-transaction, from alternative suppliers of fund administration services. In particular, within the State there will remain strong competition from suppliers including State Street International, JP Morgan, Northern Trust, Bank of Ireland Securities and Brown Brothers Harriman.

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<sup>5</sup> Data from [www.globalcustody.net](http://www.globalcustody.net) for the 2008/2009.

<sup>6</sup> *Lipper Ireland Fund Encyclopaedia 2009*. Lipper (formerly Lipper Fitzrovia) is a London based provider of investment funds research. Lipper data has been used previously by the Competition Authority, e.g. in Determination 07/018 *BNY/Mellon* and Determination 07/026 *State Street/IFIN*.

<sup>7</sup> Data from Scrip Issue Global Report September 2009.

<sup>8</sup> *Lipper Ireland Fund Encyclopaedia 2009*.

23. The Authority considers that given the number of competitors present and the strong buying power of customers, the proposed transaction is not likely to raise competition concerns in relation to fund administration services in the State.

**Ancillary restraints**

24. As part of the proposed transaction the seller, i.e., GIS's parent company PNC Group, has agreed to not compete with BNY Mellon in the provision of custody services and fund administration. The Authority considers this restriction to be directly related and necessary to the implementation of the proposed transaction.

**Determination**

The Competition Authority, in accordance with section 21(2)(a) of the Competition Act 2002, has determined that, in its opinion, the result of the proposed acquisition by Bank of New York Mellon of PNC Global Investment Servicing, Inc. will not be to substantially lessen competition in any market for goods or services in the State and, accordingly, the acquisition may be put into effect.

**For the Competition Authority**

Dr Stanley Wong  
Member of the Competition Authority