

FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 20140402891-01

TO: Department of Market Regulation
Financial Industry Regulatory Authority ("FINRA")

RE: Morgan Stanley Smith Barney LLC, Respondent
Broker-Dealer
CRD No. 149777

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Morgan Stanley Smith Barney LLC (the "firm") submits this Letter of Acceptance, Waiver and Consent ("AWC") for the purpose of proposing a settlement of the alleged rule violations described below. This AWC is submitted on the condition that, if accepted, FINRA will not bring any future actions against the firm alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. The firm hereby accepts and consents, without admitting or denying the findings, and solely for the purposes of this proceeding and any other proceeding brought by or on behalf of FINRA, or to which FINRA is a party, prior to a hearing and without an adjudication of any issue of law or fact, to the entry of the following findings by FINRA:

BACKGROUND

The firm has been a member of FINRA since May 19, 2009, and its registration remains in effect.

RELEVANT DISCIPLINARY HISTORY

On October 28, 2011, FINRA accepted an AWC in connection with 20060056031 in which the firm was fined \$1 million, of which \$650,000 was for charging unfair markups and markdowns (including violations of MSRB Rule G-30) in connection with fixed income transactions that occurred from January 1, 2009 through December 31, 2010.¹

¹ The fine amount also covered conduct by an affiliated broker-dealer, Morgan Stanley & Co., LLC ("MSCO") that occurred at various times beginning in January 2005 (the fine amounts were apportioned evenly between the firm and MSCO).

On August 22, 2013, FINRA accepted an AWC in connection with 20080160235 in which the firm was fined \$1 million for charging unfair prices (including violations of MSRB Rule G-30) in connection with fixed income transactions that occurred from January 2008 through September 2011.²

SUMMARY

The matters below involve reviews conducted by the Fixed Income Investigations staff of the Department of Market Regulation (the "staff") of the firm's municipal bond transactions during various periods from July 1, 2013 through March 31, 2014 to determine whether the firm transacted with customers at prices that were consistent with the firm's obligations to its customers under applicable rules, as follows:

in connection with 20140402891, the staff reviewed the firm's municipal bond transactions during the period October 1, 2013 through December 31, 2013 (the "4Q13 period");

in connection with 20140417870, the staff reviewed the firm's municipal bond transactions during the period July 1, 2013 through December 31, 2013 (the "2H13 period"); and

in connection with 20140411521, the staff reviewed the firm's municipal bond transactions during the period January 1, 2014 through March 31, 2014 (the "1Q14 period").

Based on the foregoing reviews, the staff determined that the firm violated MSRB Rules G-17, G-30(a), and G-30(b).

FACTS AND VIOLATIVE CONDUCT

20140402891 (4Q13 review)

1. During the 4Q13 period, in 14 pairs of transactions as set forth on Exhibit A, the firm purchased municipal securities for its own account from a customer, or sold municipal securities for its own account to a customer, at an aggregate price (including any markup or markdown) that was not fair and reasonable, taking into consideration all relevant factors, including the best judgment of the broker, dealer or municipal securities dealer as to the fair market value of the securities at the time of the transaction and of any securities exchanged or traded in connection with the transaction, the expense involved in effecting the transaction, the fact that the broker, dealer, or municipal securities dealer is entitled to a profit, and the total amount of the transaction. The conduct described in this paragraph constitutes separate and distinct violations of MSRB Rules G-17 and G-30(a).

² As with the 2011 settlement described above, the fine amount in the 2013 settlement also covered conduct by MSCO and the fine amounts were once again apportioned between the two firms.

201400417870 (2H13 review)

2. During the 2H13 period, in six municipal bond transactions as set forth on Exhibit B, the firm purchased municipal securities for its own account from a customer at an aggregate price (including any markup or markdown) that was not fair and reasonable, taking into consideration all relevant factors, including the best judgment of the broker, dealer or municipal securities dealer as to the fair market value of the securities at the time of the transaction and of any securities exchanged or traded in connection with the transaction, the expense involved in effecting the transaction, the fact that the broker, dealer, or municipal securities dealer is entitled to a profit, and the total amount of the transaction. The conduct described in this paragraph constitutes separate and distinct violations of MSRB Rules G-17 and G-30(a).

20140411521 (1Q14 review)

3. During the 1Q14 period, in 13 municipal bond transactions as set forth on Exhibit C, the firm purchased municipal securities for its own account from a customer, or sold municipal securities for its own account to a customer, at an aggregate price (including any markup or markdown) that was not fair and reasonable, taking into consideration all relevant factors, including the best judgment of the broker, dealer or municipal securities dealer as to the fair market value of the securities at the time of the transaction and of any securities exchanged or traded in connection with the transaction, the expense involved in effecting the transaction, the fact that the broker, dealer, or municipal securities dealer is entitled to a profit, and the total amount of the transaction. The conduct described in this paragraph constitutes separate and distinct violations of MSRB Rules G-17 and G-30(a).
4. During the 1Q14 period, in two municipal bond transactions as set forth on Exhibit D, the firm purchased or sold municipal securities as agent for a customer for a commission or service charge that was in excess of a fair and reasonable amount, taking into consideration all relevant factors, including the availability of the securities involved in the transaction, the expense of executing or filling the customer's order, the value of the services rendered by the broker, dealer or municipal securities dealer, and the amount of any other compensation received or to be received by the broker, dealer, or municipal securities dealer in connection with the transaction. The conduct described in this paragraph constitutes separate and distinct violations of MSRB Rules G-17 and G-30(b).

B. The firm also consents to the imposition of the following sanctions:

A censure and a fine of \$115,000, and restitution to investors as set forth on Exhibits A, B, C, and D in the total amount of \$55,284.28³ plus interest at the rate set forth in Section 6621(a) of the Internal Revenue Code, 26 U.S.C. 6621(a)(2), from the date of the violative conduct until the date this AWC is accepted by the National Adjudicatory Council. A registered principal on behalf of the Respondent firm shall submit satisfactory proof of payment of the restitution, or of reasonable and documented efforts undertaken to effect restitution. Such proof shall be submitted to the COMPLIANCE ASSISTANT, LEGAL SECTION, MARKET REGULATION DEPARTMENT, 9509 KEY WEST AVENUE, ROCKVILLE, MD 20850, either by letter that identifies the Respondent and case number, or by email from a work-related account of the registered principal of the firm to MarketRegulationComp@finra.org. This proof shall be provided to FINRA no later than 120 days after acceptance of this AWC.

If for any reason Respondent cannot locate any customer identified in Exhibits A, B, C, or D after reasonable and documented efforts within 120 days from the date the AWC is accepted, or such additional period agreed to by FINRA staff in writing, Respondent shall forward any undistributed restitution and interest to the appropriate escheat, unclaimed-property or abandoned-property fund for the state in which the customer is known to have last resided. Respondent shall provide satisfactory proof of such action to FINRA in the manner described above, within 14 days of forwarding the undistributed restitution and interest to the appropriate state authority.

The firm specifically and voluntarily waives any right to claim that it is unable to pay, now or at any time hereafter, the monetary sanction(s) imposed in this matter.

The imposition of a restitution order or any other monetary sanction herein, and the timing of such ordered payments, does not preclude customers from pursuing their own actions to obtain restitution or other remedies.

The firm agrees to pay the monetary sanction(s) upon notice that this AWC has been accepted and that such payment(s) are due and payable. It has submitted an Election of Payment form showing the method by which it proposes to pay the fine imposed.

The sanctions imposed herein shall be effective on a date set by FINRA staff.

³ The total amount of restitution arising from the violations described in the AWC and listed on Exhibits A-D is \$57,159.52. However, the firm already has paid restitution to address some of the violations. The remaining amount to be paid is \$55,284.28.

II.

WAIVER OF PROCEDURAL RIGHTS

The firm specifically and voluntarily waives the following rights granted under FINRA's Code of Procedure:

- A. To have a Complaint issued specifying the allegations against the firm;
- B. To be notified of the Complaint and have the opportunity to answer the allegations in writing;
- C. To defend against the allegations in a disciplinary hearing before a hearing panel, to have a written record of the hearing made and to have a written decision issued; and
- D. To appeal any such decision to the National Adjudicatory Council ("NAC") and then to the U.S. Securities and Exchange Commission and a U.S. Court of Appeals.

Further, the firm specifically and voluntarily waives any right to claim bias or prejudgment of the Chief Legal Officer, the NAC, or any member of the NAC, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including acceptance or rejection of this AWC.

The firm further specifically and voluntarily waives any right to claim that a person violated the ex parte prohibitions of FINRA Rule 9143 or the separation of functions prohibitions of FINRA Rule 9144, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including its acceptance or rejection.

III.

OTHER MATTERS

The firm understands that:

- A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by the NAC, a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs ("ODA"), pursuant to FINRA Rule 9216;
- B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against the firm; and
- C. If accepted:
 - 1. this AWC will become part of the firm's permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against the firm;
 - 2. this AWC will be made available through FINRA's public disclosure program in accordance with FINRA Rule 8313;
 - 3. FINRA may make a public announcement concerning this agreement and the subject matter thereof in accordance with FINRA Rule 8313; and
 - 4. The firm may not take any action or make or permit to be made any public statement, including in regulatory filings or otherwise, denying, directly or indirectly, any finding in this AWC or create the impression that the AWC is without factual basis. The firm may not take any position in any proceeding brought by or on behalf of FINRA, or to which FINRA is a party, that is inconsistent with any part of this AWC. Nothing in this provision affects the firm's (i) testimonial obligations, or (ii) right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.
- D. The firm may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. The firm understands that it may not deny the charges or make any statement that is inconsistent with the AWC in this Statement. This Statement does not constitute factual or legal findings by FINRA, nor does it reflect the views of FINRA or its staff.

The undersigned, on behalf of the firm, certifies that a person duly authorized to act on its behalf has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; that it has agreed to the AWC's provisions voluntarily; and that no offer, threat, inducement, or promise of any kind, other than the terms set forth herein and the prospect of avoiding the issuance of a Complaint, has been made to induce the firm to submit it.

7 Feb 2017

Date

Respondent

Morgan Stanley Smith Barney LLC

By: Harry Walters

Name: HARRY T. WALTERS

Title: Managing Director

Reviewed by:

Jim P. M.

Counsel for Respondent

Accepted by FINRA:

2/15/17

Date

Signed on behalf of the
Director of ODA, by delegated authority

Robert A. Marchman

Robert A. Marchman
Executive Vice President
Department of Market Regulation

Morgan Stanley Smith Barney LLC ("DEAN")
FINRA Matter #20140402891
AWC Exhibit A

Violation #	Item #	Trade Date - Purchase	Trade Time - Purchase	Trade Date - Sale	Trade Time - Sale	CUSIP	Contra 1*	Firm	Contra 2*	Volume	Price Bought	Price Sold	Percentage Profit	Dollar Profit	Suggested Price	Calculated Restitution	Amount Paid*	Remaining Restitution
Same Size																		
1	1	12/04/2013	15:16:57	12/04/2013	17:11:00	040484HJ9	B-D (S)	DEAN	C (B)	50,000	102.724	106.75	3.92%	2,013.00	105.076	\$ 836.81	\$ 500.00	\$ 336.81
2	2	10/03/2013	12:26:41	10/04/2013	12:53:00	167501XE0	B-D (S)	DEAN	C (B)	50,000	35.487	37.411	5.42%	962.00	37.261	\$ 74.83	\$ 300.00	\$ -
3	3	10/22/2013	14:39:11	10/22/2013	15:48:00	167505PM2	B-D (S)	DEAN	C (B)	25,000	94.719	99.101	4.63%	1,095.50	97.561	\$ 385.11	0	\$ 385.11
4	4	10/11/2013	10:21:01	10/11/2013	10:52:00	303823KE7	B-D (S)	DEAN	C (B)	75,000	91.40	94.86	3.79%	2,595.00	93.812	\$ 786.03	0	\$ 786.03
5	5	11/21/2013	08:48:49	11/21/2013	10:25:00	30421VAE9	B-D (S)	DEAN	C (B)	10,000	80.613	85.363	5.89%	475.00	84.644	\$ 71.94	0	\$ 71.94
6	7	12/31/2013	11:51:53	12/31/2013	12:28:00	46613PS49	B-D (S)	DEAN	C (B)	50,000	84.758	87.699	3.47%	1,470.50	86.826	\$ 436.45	0	\$ 436.45
7	8	10/21/2013	14:11:55	10/21/2013	15:46:00	5426902H4	B-D (S)	DEAN	C (B)	25,000	104.354	107.936	3.43%	895.50	106.316	\$ 405.04	0	\$ 405.04
8	9	12/06/2013	09:18:18	12/06/2013	09:54:00	557363BY3	B-D (S)	DEAN	C (B)	25,000	98.00	101.996	4.08%	999.00	100.479	\$ 379.15	0	\$ 379.15
9	10	12/11/2013	14:22:39	12/12/2013	11:38:00	646136H46	B-D (S)	DEAN	C (B)	25,000	95.424	99.811	4.60%	1,096.75	98.201	\$ 402.54	0	\$ 402.54
10	70	10/15/2013	12:56:00	10/15/2013	13:31:05	74529JNH4	C (S)	DEAN	B-D (B)	40,000	71.00	74.25	4.38%	1,300.00	73.032	\$ 812.92	\$ 1,300.40	\$ -
11	73	11/19/2013	10:21:03	11/19/2013	10:21:00	74529JNV3	B-D (S)	DEAN	C (B)	25,000	78.649	81.743	3.93%	773.50	80.946	\$ 199.36	0	\$ 199.36
12	75	12/05/2013	12:09:54	12/05/2013	15:40:00	875906NU9	B-D (S)	DEAN	C (B)	25,000	101.206	104.276	3.03%	767.50	103.088	\$ 296.89	0	\$ 296.89
Without Size																		
13	87a	10/16/2013	14:34:00			745160QC8	C (S)	DEAN		150,000	69.65		4.32%	4,714.80	70.632	\$ 441.90	0	\$ 441.90
	87b			10/16/2013	14:50:13	745160QC8		DEAN	B-D (B)	45,000		72.749		1,394.55				
	87c			10/16/2013	14:50:17	745160QC8		DEAN	B-D (B)	45,000		72.999		1,507.05				
	87d			10/16/2013	15:01:00	745160QC8		DEAN	C (B)	60,000		72.672		1,813.20				
14	95a			12/13/2013	12:59:00	913366AV2		DEAN	C (B)	100,000		94.469	3.67%	3,178.05	93.341	\$ 846.17	0	\$ 846.17
	95b	12/13/2013	12:27:38			913366AV2	B-D (S)	DEAN		75,000	91.162			2,480.25				
	95c	12/13/2013	13:07:00			913366AV2	C (S)	DEAN		20,000	90.98			697.80				
TOTAL																\$ 6,375.14	\$ 2,100.40	\$ 4,987.39

Contra parties identified as follows: B-D (S) indicates another Broker-Dealer selling to the firm; B-D (B) indicates another Broker-Dealer buying from the firm; C (S) indicates a customer selling to the firm; and C (B) indicates a customer buying from the firm.

*"Amount paid" refers to restitution paid by the firm prior to acceptance of the AWC.

Morgan Stanley Smith Barney LLC ("DEAN")
FINRA Matter No. 20140417870
AWC Exhibit B

Item	Trade Date	Trade Time	CUSIP	Seller	Buyer	Volume	Original Price	New Price	Calculated Restitution	Amount Paid	Remaining Restitution
2	10/9/2013	11:05:00	74529JKL8	CUST	DEAN	15,000	70.00	77.42	\$1,113.00		\$1,113.00
3	10/7/2013	16:41:00	74529JKL8	CUST	DEAN	10,000	72.014	77.42	\$540.60		\$540.60
4	10/9/2013	12:25:00	74529JKL8	CUST	DEAN	15,000	70.236	77.42	\$1,077.60		\$1,077.60
5	10/9/2013	14:31:00	74529JNX9	CUST	DEAN	25,000	66.776	81.705	\$3,732.25		\$3,732.25
6	10/11/2013	12:12:00	74529JHL2	CUST	DEAN	15,000	61.69	70.436	\$1,311.89	\$487.50	\$824.40
7	10/11/2013	10:50:00	74529JKA2	CUST	DEAN	20,000	72.75	87.932	\$3,036.47		\$3,036.47
RESTITUTION									\$10,811.81		\$10,324.32

AWC Exhibit C

[illegible]

**Morgan Stanley Smith Barney LLC (“DEAN”)
FINRA Matter No. 20140411521
AWC Exhibit D**

[illegible]