

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2017052995901**

TO: Department of Enforcement
Financial Industry Regulatory Authority (FINRA)

RE: Morgan Stanley Smith Barney LLC, Respondent
Member Firm
CRD No. 149777

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Respondent Morgan Stanley Smith Barney LLC ("Morgan Stanley," the "Firm," or "Respondent") 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 Respondent alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. Respondent 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

Morgan Stanley has been registered as a broker-dealer with FINRA since May 2009. Morgan Stanley was created through the merger of the Global Wealth Management Group of Morgan Stanley & Co. LLC (CRD No. 8209) and the Smith Barney Division of Citigroup Global Markets Inc. ("CGMI," CRD No. 7059) into a joint venture. In June 2013, Morgan Stanley completed the purchase of CGMI's portion of the joint venture. Morgan Stanley is headquartered in Purchase, New York, and employs more than 23,000 registered individuals in more than 720 branch offices.

RELEVANT DISCIPLINARY HISTORY

Morgan Stanley does not have any relevant disciplinary history with the Securities and Exchange Commission, any state securities regulators, FINRA, or any other self-regulatory organization.

OVERVIEW

From February 2014 through April 2017, Morgan Stanley submitted at least 869 inaccurate blue sheets to SEC and FINRA, misreporting information on at least 156,678 options transactions. Therefore, Morgan Stanley violated Section 17(a)(1) of the Securities Exchange Act and Rules 17a-4(j) and 17a-25 thereunder, and FINRA Rules 8211, 8213, and 2010

FACTS AND VIOLATIVE CONDUCT

Federal securities laws and FINRA rules require that member firms submit trade data in an automated format when requested by the SEC or FINRA. These trade data are commonly known as “blue sheets.”

The SEC, FINRA, and other regulators request blue sheets to assist them in investigations focused on trading, including suspicious and insider trading. Blue sheets provide regulators with critical information about suspicious transactions, including the name of the account owner, the nature of the transaction (whether it was a buy, sale, or short sale), and the price at which the transaction occurred. It is therefore an essential and fundamental obligation of each member firm to provide complete, accurate, and timely blue sheet submissions.

The failure of a member firm to provide complete and accurate blue sheet information in response to a regulatory request can impact a regulator’s ability to discharge its obligations, undermine the integrity of its investigations and examinations, and ultimately interfere with its ability to protect investors.

Submission of Inaccurate Blue Sheets.

Section 17(a)(1) of the Exchange Act and Rules 17a-4(j) and 17a-25, thereunder, require broker-dealers to submit “legible, true, complete, and current” blue sheet data to the SEC upon request. FINRA Rules 8211 and 8213 require that member firms submit trade data, as prescribed in FINRA Rule 8211, to FINRA upon request.

FINRA first discovered Morgan Stanley’s blue sheet errors in late 2016, when blue sheet information submitted by Morgan Stanley proved to be inconsistent with information reflected in customer account statements. Specifically, for two purchase and two sales transactions, the blue sheet submission showed that the customer closed his options position (they were marked “buy close” and “sell close”), when in fact the transactions opened his options position (they should have been marked “buy open” and “sell open”). Morgan Stanley determined that human error had caused these errors, which errors had been repeated in additional blue sheet submissions. In total, this error caused the Firm to submit 107 inaccurate blue sheet submissions to FINRA (misreporting 6,305 options trades as closing transactions) and 518 inaccurate blue sheets submitted to SEC (misreporting 102,262 options trades as closing transactions).

FINRA subsequently identified different inconsistencies between blue sheet submissions and other documents that led to the discovery of two separate computer coding issues that

caused the Firm to incorrectly report whether options transactions opened or closed positions. One coding error – related to the Firm’s money manager programs – had caused Morgan Stanley’s blue sheets to report all options trades as closing trades. As a result, the Firm submitted 34 inaccurate blue sheet submissions to FINRA (misreporting approximately 2,790 options trades as closing transactions) and 210 inaccurate blue sheet submissions to the SEC (misreporting approximately 45,321 options trades as closing transactions).

The second coding error occurred because Morgan Stanley’s electronic blue sheet system obtained trade data from an internal data repository that sometimes had a blank in its symbol field. This error had caused Morgan Stanley’s electronic blue sheet system sometimes to indicate that closing transactions were opening transactions. Because this error occurred intermittently, the number of affected blue sheet submissions or transactions is unknown.

In total, from February 2014 through April 2017, Morgan Stanley submitted at least 869 inaccurate blue sheet responses to SEC and FINRA, containing inaccurate information on at least 156,678 options transactions.

By virtue of the foregoing, Morgan Stanley violated Section 17(a)(1) of the Exchange Act; Rules 17a-4(j) and 17a-25, thereunder; and FINRA Rules 8211, 8213, and 2010.

B. Respondent also consents to the imposition of the following sanctions:

(1) A censure; and

(2) A fine of \$875,000.

Respondent agrees to pay the monetary sanction to FINRA upon notice that this AWC has been accepted and that such payment is due and payable. Respondent has submitted an Election of Payment form showing the method by which it proposes to pay the fine imposed.

Respondent specifically and voluntarily waives any right to claim an inability to pay, now or at any time hereafter, the monetary sanction imposed in this matter.

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

II.

WAIVER OF PROCEDURAL RIGHTS

Respondent specifically and voluntarily waives the following rights granted under FINRA’s Code of Procedure:

A. To have a Complaint issued specifying the allegations against it;

- 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, Respondent 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.

Respondent 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

Respondent 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 Respondent; and
- C. If accepted:
 - 1. This AWC will become part of Respondent's permanent disciplinary record and may be considered in any future action brought by FINRA or any other regulator against Respondent;
 - 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. Respondent 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. Respondent 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 Respondent'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. Respondent may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. Respondent 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 Respondent, 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 it to submit it.

June 25, 2020

Date

Respondent

Morgan Stanley Smith Barney LLC

Allison Patton

By:

Allison D. Patton

Managing Director

Morgan Stanley Smith Barney LLC

Christian Kemnitz

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Counsel for Respondent

Accepted by FINRA:
July 8, 2020

Date

Signed on behalf of the
Director of CDA by delegated authority

Philip J. Berkowitz _____

Philip J. Berkowitz
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