



DIVISION OF
CORPORATION FINANCE

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

June 29, 2018

Elizabeth Marino, Esq.
Sidley Austin LLP
60 State Street
36th Floor
Boston, MA 02109

Re: Morgan Stanley Certain Unauthorized Transactions
**Morgan Stanley and Morgan Stanley Finance LLC – Waiver Request of Ineligible
Issuer Status under Rule 405 of the Securities Act**

Dear Ms. Marino:

This is in response to your letter dated June 29, 2018, written on behalf of Morgan Stanley (“MS”) and Morgan Stanley Finance LLC (“MSFL”) and constituting an application for relief from MS and MSFL being considered “ineligible issuer[s]” under clause (1)(vi) of the definition of ineligible issuer in Rule 405 of the Securities Act of 1933 (“Securities Act”). MS and MSFL request relief from being considered ineligible issuer(s) under Rule 405, due to the entry on June 29, 2018 of a Commission Order (“Order”) pursuant to Section 15(b) of the Securities Exchange Act of 1934 and Sections 203(e) and 203(k) of the Investment Advisers Act of 1940 (“Advisers Act”) against Morgan Stanley Smith Barney LLC (“MSSB”). The Order requires that, among other things, MSSB cease and desist from committing or causing any violations and any future violations of Section 206(4) of the Advisers Act and Rule 206(4)-7 thereunder.

Based on the facts and representations in your letter, and assuming MSSB complies with the Order, we have determined that MS and MSFL have made a showing of good cause under clause (2) of the definition of ineligible issuer in Rule 405 and that MS and MSFL will not be considered ineligible issuers by reason of the entry of the Order. Accordingly, the relief described above from MS and MSFL being ineligible issuers under Rule 405 of the Securities Act is hereby granted. Any different facts from those represented or failure to comply with the terms of the Order would require us to revisit our determination that good cause has been shown and could constitute grounds to revoke or further condition the waivers. The Commission reserves the right, in its sole discretion, to revoke or further condition the waivers under those circumstances.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Sincerely,

/s/

Tim Henseler
Chief, Office of Enforcement Liaison
Division of Corporation Finance



SIDLEY AUSTIN LLP
60 STATE STREET
36TH FLOOR
BOSTON, MA 02109
+1 617 223 0300
+1 617 223 0301 FAX

EMARINO@SIDLEY.COM
+1 617 223 0362

AMERICA • ASIA PACIFIC • EUROPE

June 29, 2018

By Email

Timothy Henseler, Esq.
Chief, Office of Enforcement Liaison
Division of Corporation Finance
U.S. Securities and Exchange Commission
100 F Street NE
Washington, DC 20549

Re: *In the Matter of Morgan Stanley Smith Barney LLC*

Dear Mr. Henseler:

We are writing on behalf of Morgan Stanley (“Morgan Stanley”) and Morgan Stanley Finance LLC (“MSFL”) (collectively, “MS”) in connection with Morgan Stanley Smith Barney LLC’s (“MSSB”) anticipated settlement with the United States Securities and Exchange Commission (“SEC” or “Commission”) relating to *In the Matter of Morgan Stanley Smith Barney LLC*. The settlement will result in an Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Section 15(b) of the Securities Exchange Act of 1934 (the “Exchange Act”) and Sections 203(e) and 203(k) of the Investment Advisers Act of 1940 (“Advisers Act”), Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order (the “Order”) against MSSB.

Morgan Stanley is a publicly traded company listed on the New York Stock Exchange and is a reporting company under the Exchange Act. Morgan Stanley qualifies as a “well-known seasoned issuer” (“WKSI”) as defined in Rule 405 under the Securities Act of 1933 (“Securities Act”). MSFL is a wholly-owned finance subsidiary of Morgan Stanley, and securities issued by MSFL are fully and unconditionally guaranteed by Morgan Stanley. We respectfully request a waiver from the Division of Corporation Finance (the “Division”), acting pursuant to its delegated authority, or the Commission itself determining that it is not necessary under the circumstances that MS would be considered an “ineligible issuer,” as defined in Rule 405 under the Securities Act, as a result of the Commission entering the Order, which is described below. Consistent with the framework outlined in the Division’s *Revised Statement on Well-Known Seasoned Issuer Waivers* (April 24, 2014) (“Revised Statement”), there is good cause for the Division, on behalf of the Commission, or the Commission itself to grant the requested waiver, as discussed below.

We request that the determination that MS not be considered an ineligible issuer be made effective upon entry of the Order.

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I. BACKGROUND

MSSB expects to submit an Offer of Settlement that will agree to the Order, which will be presented by the staff to the Commission.

MSSB is dually registered with the Commission as a broker-dealer and investment adviser. MSSB is a wholly owned indirect subsidiary of Morgan Stanley.

The Order will arise out of (1) MSSB's failure to adopt policies and procedures reasonably designed to prevent MSSB personnel from misusing and misappropriating funds in client accounts, by permitting investment adviser representatives and registered representatives (referred to as "FAs") to initiate third-party disbursements from client accounts of outgoing wire transfers and journals of up to \$100,000 per day per account based on the FA's attestation on an internal electronic form that the FA had received a verbal request from the client by phone or in-person and providing certain details about the request; and (ii) MSSB's failure to detect or prevent a FA from misappropriating funds from client accounts over an approximate one year period resulting in a failure to reasonably supervise the FA.

The Order will find that MSSB (i) willfully violated Section 206(4) of the Advisers Act and Rule 206(4)-7 thereunder, and (ii) failed reasonably to supervise one FA, within the meaning of Section 203(e)(6) of the Advisers Act, with a view to preventing his violations of Sections 206(1) and 206(2) of the Advisers Act.

Without admitting or denying the findings in the Order, except as to the Commission's jurisdiction over MSSB and the subject matter of the proceeding, MSSB will consent to the issuance of the Order and to (i) cease and desist from committing or causing any violations and any future violations of Section 206(4) of the Advisers Act and Rule 206(4)-7 thereunder, (ii) be censured, (iii) pay a civil money penalty in the amount of \$3.6 million, and (iv) comply with certain undertakings.

II. DISCUSSION

A WKSI is eligible to utilize many important reforms in the securities offering and communication processes that the Commission adopted in 2005. Among other things, a WKSI can register securities for offer and sale under an automatic shelf registration statement, which becomes effective upon filing and is also eligible for the other benefits of the streamlined registration process, such as the ability to file automatically effective post-effective amendments to register additional securities and pay registration filing fees on a "pay as you go" basis.

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Furthermore, a WKSI is also able to communicate more freely than a non-WKSI during the offering process, including through the use of non-term sheet free writing prospectuses.

The Commission also created another category of issuer under Rule 405 – the “ineligible issuer.” A company that is an “ineligible issuer” loses all of the benefits bestowed on a WKSI, including, and most importantly, the ability to utilize an automatic shelf registration statement and to use free writing prospectuses (except in very limited circumstances). An issuer is an ineligible issuer if “[w]ithin the past three years ... the issuer or any entity that at the time was a subsidiary of the issuer was made the subject of any judicial or administrative decree or order arising out of a governmental action that: (A) prohibits certain conduct or activities regarding, including future violations of, the anti-fraud provisions of the federal securities laws; (B) requires that the person cease and desist from violating the anti-fraud provisions of the federal securities laws; or (C) determines that the person violated the anti-fraud provisions of the federal securities laws.”¹

The entry of the Order against MSSB will render MS an ineligible issuer under Rule 405. As a result, absent a waiver from the disqualification, MS would no longer be able to utilize the benefits of WKSI status.

The Commission retains the authority under Rule 405 to determine “upon a showing of good cause, that it is not necessary under the circumstances that the issuer be considered an ineligible issuer.”² The Commission has delegated the authority to the Division to make such a determination.³ In the Revised Statement, the Division stated that it will consider the following factors in determining whether to grant a waiver:

- the nature of the violation and whether it involved disclosure for which the issuer or any of its subsidiaries was responsible or calls into question the ability of the issuer to produce reliable disclosure currently and in the future;
- whether the misconduct involved a criminal conviction or scienter-based violation;
- who was responsible for the misconduct and what was the duration of the misconduct;

¹ 17 C.F.R. 230.405(1)(vi).

² 17 C.F.R. 230.405(2).

³ 17 C.F.R. § 200.30-1(a)(10).

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- what remedial steps the issuer took; and
- the impact if the waiver request is denied.

For the reasons set forth below, we respectfully submit that there is good cause for the Division to grant the waiver and determine that it is not necessary for the public interest or the protection of investors that MS be considered an ineligible issuer.

A. Nature of the Violation and Whether the Violation Casts Doubt on the Ability of the Issuer to Produce Reliable Disclosures to Investors

The conduct described in the Order does not pertain to any disclosures provided by MS in documents filed with the Commission. Nor does the conduct involve any intentional misconduct by MS. Rather, the conduct described in the Order that gave rise to the ineligibility relates only to MSSB – a subsidiary of Morgan Stanley – and arises out of MSSB’s failure to adopt policies and procedures reasonably designed to prevent MSSB personnel from misusing and misappropriating funds in client accounts, which contributed to its failure to prevent or detect one FA from misappropriating funds from client accounts.⁴ The Order will find that while MSSB policies provided for certain reviews prior to issuing the disbursements, such reviews were not reasonably designed to detect or prevent an FA from making false attestations about having received a verbal client request to transfer funds to a third-party for the FA’s benefit. As described herein and as noted in the Order, MSSB has developed significant enhancements to its policies and procedures, systems and controls relating to preventing or detecting conversion of client advisory and customer brokerage funds by MSSB personnel through third-party cash disbursements (the “Enhanced MSSB Policies”), increased its anti-fraud program expenditures, and hired additional fraud operations personnel.

The violation at issue in the Order will pertain to MSSB’s failure to adopt and implement written policies and procedures reasonably designed to prevent violation of the Advisers Act, which the Order will find was a violation of Section 206(4) of the Advisers Act and Rule 206(4)-7 thereunder. Although Section 206(4) is considered to be an anti-fraud provision, the Order does not conclude that there were misstatements or omissions of fact by MSSB. Moreover, there is no connection between the activities of MSSB described in the Order and disclosures prepared by MS as an issuer of securities or in its filings with the Commission; no individuals at MSSB were or are involved in the preparation of such disclosures prepared by MS as an issuer of

⁴ As discussed above, the Order also finds violations related to the failure to reasonably supervise one FA, within the meaning of Section 203(e)(6) of the Advisers Act, with a view to preventing his violations of Sections 206(1) and 206(2) of the Advisers Act; however, such violations would not cause MS to be deemed an “ineligible issuer.”

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securities or in its filings with the Commission. Furthermore, no senior executive officers of MSSB or MS were involved in the conduct underlying the Order.

In our view, none of the conduct described in the Order implicates in any way the ability of MS to issue reliable disclosures.

B. The Order Is Not Criminal in Nature or Involve Scienter-Based Fraud

The Revised Statement indicates that the Division “will review whether the conduct involved a criminal conviction or scienter-based violation as opposed to a civil or administrative non-scienter based violation.” The Order does not involve a criminal conviction and does not state that MSSB acted with scienter or intent to defraud. In particular, the violations found in the Order, which trigger disqualification, are Section 206(4) of the Advisers Act and Rule 206(4)-7 thereunder, which are non-scienter based anti-fraud provisions.

C. The Persons Responsible for the Misconduct and the Duration of the Misconduct

The Commission has not charged any individuals currently associated with MSSB with violations in connection with the conduct underlying the Order, and we understand that no such charges are forthcoming. Rather, the Order will find that MSSB’s former FA was responsible for the misconduct at issue and that MSSB failed to adopt policies and procedures reasonably designed to prevent MSSB personnel from misusing and misappropriating funds in client accounts. Upon learning of the FA’s misconduct, MSSB promptly terminated the FA. The FA was not involved in the preparation of MS disclosures as an issuer of securities or in its filings and there was no sharing of functions between the FA and persons at MS.

The FA’s misconduct occurred over a period of nearly a year. Upon learning of the FA’s misconduct, MSSB promptly terminated the FA. Furthermore, as detailed below in section II.D, MSSB has also taken substantial remedial steps, on its own initiative, to address the conduct at issue in the Order and will take additional remedial steps to comply with the undertakings in the Order.

D. Remedial Steps

MSSB has taken substantial remedial steps, on its own initiative, to address the conduct at issue in the Order and it will take additional remedial steps to comply with the undertakings in the Order.

As noted in the Order, a representative of the defrauded clients contacted MSSB questioning transactions in their accounts. MSSB promptly conducted an internal investigation,

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terminated the FA and reported the fraud to the SEC and other law enforcement agencies. MSSB entered into settlement agreements with the defrauded clients in which MSSB fully repaid the clients plus interest. As noted above, MSSB has developed the Enhanced MSSB Policies, increased its anti-fraud program expenditures and hired additional fraud operations personnel. The Enhanced MSSB Procedures include increased client contact, independent client call backs on a risk-based and randomly-sampled basis, revisions to the calibration of its fraud software, and other new or revised internal surveillance procedures. In particular, MSSB:

- More than tripled the headcount of its Fraud Operations Department;
- Expanded its governance structure for fraud risk management and anti-fraud procedures;
- Instituted a Global Anti-Fraud Policy, which sets forth the obligations of employees, supervisors, and business units in fraud prevention and escalation and codifies the governance structure;
- Developed procedures that are specifically intended to prevent the misuse of procedures that permit clients to transfer money using verbal instructions and that are the subject of the Order, including lowering the verbal wire threshold, expanding its independent client call back process, and utilizing eAuthorization technology. In the fall of 2018, the Firm also expects to launch near real-time client notifications in connection with outgoing wire transfers;
- Launched a firm-wide fraud awareness training;
- Launched a set of surveillance triggers designed to identify potential warning signs of internal fraud. For example, the velocity monitoring report compares the aggregate amount and number of transactions at an account-level over a given time period to alert on transactions requiring further investigation. When the alert is detected, a fraud investigator reviews all of the transactions on the account for signs of misappropriation and escalates potential issues to Field Risk and Fraud Leadership; and
- Instituted monitoring of and increased controls over access to online client accounts.

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In connection with the Order, MSSB also will agree to implement certain undertakings, including the following:

- **Initial Certification:** Within six (6) months of the date of the Order, MSSB shall require the Head of Risk for Wealth Management (the “Certifying Individual”) to certify that the Enhanced MSSB Policies are fully operational (the “Initial Certification”). The Initial Certification shall be supported by exhibits sufficient to demonstrate compliance with the undertaking. The Commission staff may make reasonable requests for further evidence of compliance, and MSSB has agreed to provide such evidence.
- **Final Certification.** Within six (6) months after the date of the Initial Certification, MSSB has agreed to assess the implementation and adequacy of the Enhanced MSSB Policies, together with any other relevant MSSB policies, procedures, systems and controls relating to preventing or detecting conversion of client advisory funds by MSSB personnel through all forms of third-party cash disbursements (including but not limited to, wire transfer, journal or checks) (collectively, the “Then-Existing Relevant MSSB Policies”). MSSB shall require the Certifying Individual to certify that he or she has reviewed and evaluated MSSB’s assessment and that, after reasonable inquiry, believes that the Then-Existing Relevant MSSB Policies are adequate and sufficient to provide reasonable assurance of compliance with all relevant Commission regulations and any standards and rules of self-regulatory organizations registered with the Commission and of which MSSB is a member (the “Final Certification”). If the Certifying Individual cannot represent that the Then-Existing Relevant MSSB Policies are adequate and sufficient, then the Certifying Individual shall describe in reasonable detail the reasons for the inability to so certify. In any event, MSSB must provide the Final Certification to the Commission staff within ninety (90) days of the end of the six-month period. The Final Certification shall also describe the nature and scope of MSSB’s assessment and be supported by exhibits sufficient to demonstrate compliance with the undertaking. The Commission staff may make reasonable requests for further evidence of compliance, and MSSB has agreed to provide such evidence.

MSSB thus has taken and will continue to take concrete steps to remediate the conduct at issue in the Order. The steps are designed to enhance MSSB’s overall compliance program going forward.

E. Previous Actions

MSFL and/or Morgan Stanley have previously been granted waivers regarding their WKSI status in the following instances:

- *In the Matter of Morgan Stanley Smith Barney, LLC* (February 14, 2017) related to MSSB's solicitation of advisory clients to purchase certain single-inverse exchange traded funds without adequately implementing MSSB's written compliance policies and procedures designed to prevent violations of the Advisers Act.
- *In the Matter of Morgan Stanley Smith Barney, LLC* (January 24, 2017) related to MSSB's failure to adequately disclose to investors material information about a foreign exchange trading program.
- *In the Matter of Morgan Stanley Smith Barney, LLC* (January 13, 2017) related to MSSB's inadvertent errors in advisory client fee billing, failure to obtain annual surprise custody examinations, and failure to maintain signed client contracts.
- *In the Matter of Morgan Stanley Investment Management, Inc. and Sheila Huang* (Dec. 22, 2015) related to a series of unlawful prearranged trades conducted by a portfolio manager/trader formerly employed by Morgan Stanley Investment Management, Inc. ("MSIM").
- *In the Matter of Morgan Stanley & Co. LLC* (June 18, 2015) related to the failure by Morgan Stanley & Co. LLC ("MS&Co.") to conduct adequate due diligence on certain municipal securities offerings in connection with the Municipalities Continuing Disclosure Cooperation Initiative. This matter was self-reported to the Commission and the settlement involved 36 underwriters.
- *In the Matter of Morgan Stanley & Co. LLC; Morgan Stanley ABS Capital I Inc.; and Morgan Stanley Mortgage Capital Holdings LLC* (July 24, 2014) related to understatements of current and/or historically delinquent loans collateralizing two subprime residential mortgage-backed securities offerings in which MS&Co. acted as underwriter, Morgan Stanley ABS Capital I Inc. acted as depositor and Morgan Stanley Mortgage Capital Holdings LLC acted as sponsor.
- *In the Matter of Morgan Stanley Investment Management, Inc.* (Nov. 16, 2011) related to conduct by MSIM in connection with the investment advisory fees

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charged to a particular fund by the fund's Malaysian sub-adviser and representations made to investors and the fund's board of directors regarding the nature of the services provided by the sub-adviser. MSIM served as the primary investment adviser to the fund.

- *In the Matter of Morgan Stanley & Co. Incorporated* (July 20, 2009) related to conduct by Morgan Stanley & Co. Incorporated in connection with recommendations to certain advisory clients of certain money managers who were not on a pre-approved list of money managers, contrary to the procedures described in disclosure materials provided to clients, failing to disclose the conflicts of interest associated with such recommendations, failing to supervise a financial adviser involved in such violations and failing to maintain certain books and records.
- *In the Matter of Morgan Stanley & Co. Incorporated* (May 11, 2007) related to conduct by Morgan Stanley & Co. Incorporated in connection with best execution owed to retail customers on over-the-counter orders.

The conduct that was the subject of the above-referenced waiver requests and the conduct in this matter do not relate to MS's conduct as an issuer of securities and does not call into question MS's ability to make accurate and reliable disclosures. Further, there is no relationship between the conduct in this matter and any of the actions underlying the above-referenced waiver requests. Lastly, MSSB has taken remedial steps related to the conduct described in the Order to help prevent such conduct from recurring.

F. Impact on Issuer if Request is Denied

The Division's Revised Statement indicates that it will "assess whether the loss of WKSI status would be a disproportionate hardship in light of the nature of the issuer's conduct." Given that the conduct attributed to MSSB in the Order related to aspects of a single policy applicable to a small subset of trades occurring in non-discretionary advisory accounts, we respectfully submit that the impact of MS being designated an ineligible issuer, resulting in the loss of WKSI status for MS, would be unduly severe.

Morgan Stanley is a global financial institution that relies on automatic shelf registration statements to conduct its day-to-day business transactions, including frequent offers and sales under automatic shelf registration statements. For Morgan Stanley, the automatic shelf registration process provides a critical means of access to the capital markets, which is an essential source of funding for its global operations, in a timely and efficient manner. In

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addition, many Morgan Stanley institutional and retail clients seek to purchase investment products that are structured to meet the specific investment goals of those clients. These structured products are securities issued by MS and are often sold in offerings registered with the SEC using Morgan Stanley's automatic shelf registration statement, as described further below. Consequently, the ability to avail itself of automatic shelf registration and the other benefits available to a WKSI is extremely important to MS's ability to raise capital, conduct its operations and operate client-facing businesses.

As an ineligible issuer, MS would, among other things, lose the ability to:

- file automatic shelf registration statements to register an indeterminate amount of securities;
- offer additional securities of the classes covered by a registration statement without filing a new registration statement;
- allow Morgan Stanley to include certain information omitted from the registration statement at the time of effectiveness through the filing of prospectus supplements or incorporated Exchange Act reports;
- take advantage of the “pay as you go” filing fee payment process;
- qualify a new indenture under the Trust Indenture Act of 1939, if needed, without filing or having the Commission declare effective a new registration statement; and
- use free writing prospectuses other than one that contains only a description of the terms of the offered securities or the offering itself.

Morgan Stanley currently has on file an automatic shelf registration statement on Form S-3 that registers indeterminate amounts of multiple classes of securities. As described above, Morgan Stanley amended its registration statement in February 2016, to add Morgan Stanley Finance LLC (“MSFL”) as an issuer. Securities issued by MSFL are fully and unconditionally guaranteed by Morgan Stanley. For the period from January 1, 2016 to December 31, 2017, MS, including securities offered by Morgan Stanley and MSFL, priced approximately 1,336 securities offerings under its automatic shelf registration statement, with a total principal amount of

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approximately \$68,018,153,632.50. MS uses its automatic shelf registration statement to offer and sell three principal categories of securities.⁵

- First, Morgan Stanley issues securities to meet its regulatory capital requirements, such as preferred stock and subordinated debt. For the period from January 1, 2016 to December 31, 2017, one offering, with a total principal amount of \$1,000,000,000.00, was conducted pursuant to the automatic shelf registration statement.⁶
- Second, MS issues senior debt securities with a fixed and/or floating rate of interest. For the period from January 1, 2016 to December 31, 2017, approximately 37 offerings, with a total principal amount of approximately \$59,877,061,200.00, were conducted pursuant to the automatic shelf registration statement, including offerings by both Morgan Stanley and MSFL.
- Finally, MS issues a variety of structured products linked to the performance of different underlying assets and sells them to its clients and through third-party dealer relationships. These structured products include: market-linked notes (which provide investors with a market-based return in addition to the return of par or some other guaranteed amount); leveraged performance investments (which provide enhanced returns relative to an underlying asset's actual return); enhanced yield investments (which may provide current income derived from taking a view on an underlying asset); and access investments (which provide exposure to the returns of less-accessible sectors, asset classes or investment strategies). For the period from January 1, 2016 to December 31, 2017, approximately 1,298 offerings, with a total principal amount of approximately \$7,141,092,432.50, were conducted pursuant to the automatic shelf registration statement, including securities offered by Morgan Stanley and MSFL.

The vast majority of these securities offerings used a free writing prospectus as one of the offering documents. The ability to use free writing prospectuses enables MS to communicate more freely with its prospective clients and provide them with important information needed for an informed investment decision. For example, many of the free writing prospectuses used by MS in its offerings are investor education materials. MS would be at a disadvantage compared to other issuers if it were unable to use these types of communications, which have become

⁵ Morgan Stanley priced approximately 260 securities offerings with a total principal amount of approximately \$62,126,632,550.00 and MSFL priced approximately 1,076 securities offerings with a total principal amount of approximately \$5,891,521,082.50.

⁶ MSFL did not offer any securities to meet regulatory capital requirements.

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commonplace following the securities offering reforms adopted by the Commission in 2005. For example, if MS was unable to use certain free writing prospectuses, certain third-party dealers may refuse to sell its structured notes due to their marketing documentation requirements.

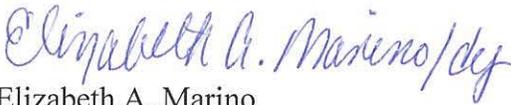
Accordingly, certain MS lines of business would encounter significant difficulty if the benefits of WKSI status described above became unavailable. The ability to avail itself of these benefits is extremely important to MS's ability to raise capital efficiently and conduct its operations. As noted, these WKSI benefits are also important to a number of MS's investment client-facing businesses as they allow them to efficiently offer structured products and provide educational materials to clients about their terms, in the same manner as other peers in these markets. Denial of this request would hinder necessary access to the capital markets and these client-facing investment markets by significantly increasing the time, labor, and cost of such access, a result that would be inequitable to its shareholders and its clients.

III. CONCLUSION

We respectfully submit that the Division, on behalf of the Commission, or the Commission itself should grant the request for this waiver because the Order does not find violations of scienter-based fraud or involve criminal conduct; the Order does not find disclosure violations by MSSB, Morgan Stanley or MSFL; and MSSB has undertaken extensive remedial actions, on its own initiative, to enhance its compliance program. Additionally, MSSB has fully cooperated with the Division of Enforcement in connection with its investigation. In light of these considerations, MS respectfully submits that it has shown good cause that it is not necessary under the circumstances that MS be considered an ineligible issuer. Accordingly, we request that the Division, on behalf of the Commission, or the Commission itself make the determination that there is good cause for MS not to be considered an ineligible issuer as a result of the Order.

If you have any questions regarding any of the foregoing, please do not hesitate to contact me at 617-223-0362.

Very truly yours,


Elizabeth A. Marino