



Michael Zmora
Senior Counsel

Department of Enforcement

FINRA | 55 W. Monroe Street
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Chicago, IL 60605
Phone: 312-230-5041
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Via Certified Mail, Return Receipt Requested (9314 8699 0430 0073 6855 73), First Class Mail and Email: Belinda.Blaine@morganstanley.com

August 3, 2020

Belinda Blaine, CCO
Morgan Stanley & Co., LLC
1585 Broadway
New York, NY 10036

RE: Payment of Fine in Connection with Executed Letter of Consent
FINRA Matter No. 2017053508807

Dear Ms. Blaine:

Enclosed is an executed copy of the Letter of Consent (“LOC”), signed by S. Anthony Taggart, on behalf of Morgan Stanley & Co., LLC (the “Firm”), and countersigned by Edward Deitzel, Executive Vice President and Chief Regulatory Officer, for the Business Conduct Committee, at the MIAX PEARL, LLC (“MIAX PEARL” or the “Exchange”) on July 31, 2020. Please consider this correspondence as notice to the Firm that this LOC has been accepted, and as a result, the Firm must promptly remit payment of the agreed upon sanction. Please make the payment to MIAX PEARL, LLC. Please note that the pre-judgment interest payment for the disgorgement component of the sanction is \$561.16.

By Mail:

Make a Firm check or Bank check payable to “MIAX PEARL” and return your payment to the following address:

By Wire:

If payment is by wire, wiring instructions are as follows:

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Pursuant to MIAX PEARL Rule 1011, after seven calendar days' notice in writing, the Exchange may summarily suspend a Member that fails to pay promptly a fine when such fine becomes finally due and payable.

If you have any questions regarding this matter, please contact me at 312-230-5041

Sincerely,

Michael Zmora

Michael Zmora
Senior Counsel

Enclosure

cc: Larry O'Leary, VP Regulation, MIAX PEARL, LLC
(via e-mail to loley@miaxoptions.com)
Christian Kemnitz, Esq., Katten Muchin Rosenman LLP (via e-mail to christian.kemnitz@katten.com)

This letter is issued on behalf of MIAX PEARL, LLC, by FINRA Department of Enforcement pursuant to a grant of authority to FINRA. Accordingly, this constitutes a letter by MIAX PEARL, LLC.

**MIAX PEARL, LLC
LETTER OF CONSENT
NO. 2017053508807**

TO: MIAX PEARL, LLC
c/o Department of Enforcement
Financial Industry Regulatory Authority ("FINRA")

RE: Morgan Stanley & Co. LLC, Respondent
Broker-Dealer
CRD No. 8209

Pursuant to Rule 1003 of the Rules of the MIAX PEARL, LLC ("MIAX PEARL"), Morgan Stanley & Co. LLC ("Morgan Stanley" or the "firm") submits this Letter of Consent ("LOC") for the purpose of proposing a settlement of the alleged rule violations described below. This LOC is submitted on the condition that, if accepted, MIAX PEARL 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 MIAX PEARL, or to which MIAX PEARL 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 MIAX PEARL:

BACKGROUND

The firm became a member of FINRA on June 5, 1970 and MIAX PEARL on February 6, 2017 and its registrations remain in effect.

RELEVANT DISCIPLINARY HISTORY

Morgan Stanley has no relevant disciplinary history with respect to MIAX PEARL. In April 2015, the International Securities Exchange, LLC (now Nasdaq ISE, LLC) censured and fined Morgan Stanley \$30,000 for one anticipatory hedge violation that occurred on January 18, 2013 (Matter No. 20130374127).

SUMMARY

In Matter No. 20170535088, FINRA's Department of Market Regulation's Options Regulation team (the "Staff") conducted a review, on behalf of MIAX PEARL and multiple additional

self-regulatory organizations,¹ of certain transactions effected by a firm trader on March 9, 2017, and the firm's compliance with MIAX PEARL rules prohibiting anticipatory hedging.

As a result of its review, FINRA's Department of Enforcement ("Enforcement") determined that, on March 9, 2017, with knowledge of material non-public information concerning an imminent undisclosed customer order, the firm executed firm trades in a related instrument option series prior to disclosure of the full terms and conditions of the customer order to the trading crowd.

FACTS AND VIOLATIVE CONDUCT

1. MIAX PEARL Rule 301 provides that no Member shall engage in acts or practices inconsistent with just and equitable principles of trade.
2. MIAX PEARL Rule 301.02 specifically provides:

It may be considered conduct inconsistent with just and equitable principles of trade for any Member or person associated with a Member who has knowledge of all material terms and conditions of:

- (1) An order and a solicited order,
- (2) An order being facilitated, or
- (3) Orders being crossed;

the execution of which are imminent, to enter, based on such knowledge, an order to buy or sell an option for the same underlying security as any option that is the subject of the order, or an order to buy or sell the security underlying such class, or an order to buy or sell any related instrument until (1) the terms and conditions of the order and any changes in the terms and conditions of the order of which the Member or person associated with the Member has knowledge are disclosed to the trading crowd, or (2) the trade can no longer reasonably be considered imminent in view of the passage of time since the order was received.

The terms of an order are "disclosed" to the trading crowd on the MIAX PEARL when the order is entered into the MIAX PEARL System.

3. When a Member engages in anticipatory hedging, or otherwise uses undisclosed information about an imminent option transaction, to trade the relevant option or a related instrument, it can disadvantage market participants who are unaware of the information or who refrain from trading based on it. As set forth in MIAX Rule 301 such conduct is considered inconsistent with just and equitable principles of trade.
4. On or about March 9, 2017, at approximately 8:32:43 a.m., a Morgan Stanley trader received a customer order to buy 6,842 ABCput option contracts

¹ The additional self-regulatory organizations are BOX Exchange LLC, NYSE Arca, Inc., NYSE American LLC, Cboe C2 Exchange, Inc., and Miami International Securities Exchange, LLC.

("Customer Order"). While in possession of the Customer Order, whose execution in light of the facts and circumstances was imminent, and prior to disclosure of the Customer Order to the trading crowd, Morgan Stanley purchased 20,000 DEF put option contracts between 8:32:45 a.m. and 8:32:54 a.m. in order to hedge its expected facilitation of the Customer Order.

5. The firm's conducted described in Paragraph 4 above violated MIAX PEARL Rule 301.

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

1. a censure;
2. a fine in the amount of \$2,473,
3. disgorgement in the amount of \$3,200.²

Additionally, acceptance of this LOC is conditioned upon acceptance of similar settlement agreements in related matters between the firm and each of the following self-regulatory organizations: (i) BOX Exchange LLC; (ii) NYSE Arca, Inc.; (iii) NYSE American LLC; (iv) Cboe C2 Exchange, Inc.; and (v) Miami International Securities Exchange, LLC.

The firm agrees to pay the monetary sanction(s) upon notice that this LOC 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 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 sanctions imposed herein shall be effective on a date set by MIAX PEARL.

II.

WAIVER OF PROCEDURAL RIGHTS

The firm specifically and voluntarily waives the following rights granted under MIAX PEARL Rules:

- A. To have a Statement of Charges issued specifying the allegations against the firm;

² The firm consents to a total fine of \$325,000 and total disgorgement of \$40,469 in this and another related matter, of which \$2,473 in fine and \$3,200 in disgorgement shall be paid to MIAX PEARL. The remainder of the fine and disgorgement shall be paid to Nasdaq Options Market LLC, Nasdaq BX, Inc., Nasdaq GEMX, LLC, NASDAQ ISE, LLC, NYSE Arca, Inc., NYSE American LLC, Cboe Exchange Inc., Cboe C2 Exchange, Inc., BOX Exchange, LLC, and Miami International Securities Exchange, LLC.

- B. To be notified of the Statement of Charges 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 MIAX PEARL's Board of Directors 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 Regulatory Officer ("CRO"), as well as the Business Conduct Committee ("BCC"), in connection with participation in discussions regarding the terms and conditions of this LOC, or other consideration of this LOC, including acceptance or rejection of this LOC.

The firm further specifically and voluntarily waives any right to claim that a person violated the ex parte prohibitions of MIAX PEARL Rule 1006, in connection with such person's or body's participation in discussions regarding the terms and conditions of this LOC, or other consideration of this LOC, including its acceptance or rejection.

III.

OTHER MATTERS

The firm understands that:

- A. Submission of this LOC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by the CRO and the BCC, pursuant to MIAX PEARL Rule 1003;
- B. If this LOC 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 LOC will become part of the firm's permanent disciplinary record and may be considered in any future actions brought by MIAX PEARL or any other regulator against the firm;
 - 2. This AWC will be published on a website maintained by MIAX PEARL; and
 - 3. 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 LOC or create the impression that the LOC is without factual basis. The firm may not take any position in any proceeding brought by or on behalf of MIAX PEARL, or to which MIAX PEARL is a party, that is inconsistent with any part of this LOC. 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 MIAX PEARL is not a party.

- D. The firm may attach a Corrective Action Statement to this LOC 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 LOC in this Statement. This Statement does not constitute factual or legal findings by MIAX PEARL, nor does it reflect the views of MIAX PEARL 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 LOC and has been given a full opportunity to ask questions about it; that it has agreed to the LOC'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.

June 5, 2020

Date

Respondent
Morgan Stanley & Co. LLC

By: S. Anthony Taggart

Name: S. Anthony Taggart

Title: Managing Director and Counsel

Reviewed by:

Chris Kemnitz
Counsel for Respondent
Christian Kemnitz
Katten Muchin Rosenman LLP
525 W. Monroe Street
Chicago, IL 60661
312-902-5379

Accepted by MIAX PEARL, LLC:

7-31-20
Date



Edward Deitzel
Executive Vice President and
Chief Regulatory Officer
Miami International Securities Exchange,
LLC

Decision of the Business Conduct Committee:

Accept Decline

7-31-20
Date



By: Edward Deitzel
For the Business Conduct Committee

ELECTION OF PAYMENT FORM

The firm intends to pay the fine proposed in the attached Letter of Consent by the following method (check one):

- A firm check or bank check for the full amount;
- Wire transfer;

Respectfully submitted,
Respondent
Morgan Stanley & Co. LLC

June 5, 2020

Date

By: S. Anthony Taggart

Name: S. Anthony Taggart

Title: Managing Director and Counsel

SANCTIONS ADDENDUM

A. FINE

The firm to pay the monetary sanctions upon notice that this LOC has been accepted and that such payments are due and payable. It 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 that it is unable to pay, now or at any time hereafter, the monetary sanctions imposed in this matter.

B. DISGORGEMENT

Disgorgement of unlawful profits, which is ordered to be paid to MIAX PEARL in the amount of \$3,200, plus interest at the rate set forth in Section 6621(a)(2) of the Internal Revenue Code, 26 U.S.C. 6621, from the date of the violative conduct until the date this LOC is accepted by the Business Conduct Committee.