



James Bowden, Jr.  
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Department of Enforcement

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**Sent via Certified Mail, Return Receipt Requested (9314 8699 0430 0127 9549 52), First Class Mail and Email (christian.kemnitz@katten.com)**

October 31, 2024

Morgan Stanley & Co., LLC  
c/o Christian Kemnitz, Esq.  
Katten Muchin Rosenman LLP  
525 W. Monroe Street  
Chicago, IL 6066

**Re: Payment of Fine in Connection with Executed Letter of Consent  
FINRA Matter No. 2022074101007**

Dear Mr. Kemnitz:

Enclosed is an executed copy of the Letter of Consent (“LOC”), signed by Samantha Schreiber at 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 (“PEARL”) on **October 31, 2024**. 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.

Morgan Stanley & Co., LLC

October 31, 2024

Page 2

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 (202) 728-8053.

Sincerely,

*James Bowden, Jr.*

James Bowden, Jr.  
Counsel

Enclosure

cc: Larry O'Leary, VP Regulation, Miami International Securities Exchange, LLC  
(via e-mail to [lolareary@miaxoptions.com](mailto:lolareary@miaxoptions.com))

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

**MIAX PEARL, LLC  
LETTER OF CONSENT  
NO. 2022074101007**

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 (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**

Morgan Stanley has been a member of FINRA since June 1970 and a member of MIAX PEARL since February 2017, and its registration remains in effect. Morgan Stanley provides services to corporate and broker-dealer clients and institutional investors, and has 42 registered branch offices and approximately 4,225 registered representatives.

**RELEVANT DISCIPLINARY HISTORY**

In April 2020, Morgan Stanley consented to a censure and an aggregate fine of \$650,000 for mismarking certain options orders with an incorrect origin code from January 1, 2011 through April 27, 2017, which resulted in approximately 1.2 million executed contracts with the incorrect origin code.<sup>1</sup> In addition, from January 1, 2011 through February 19, 2020, the firm failed to establish and maintain a reasonably designed supervisory system, including written supervisory procedures, to achieve compliance with Section 17(a) of the Securities Exchange Act of 1934 (“Exchange Act”), Rule 17a-3 thereunder, and the exchanges’ rules concerning the assignment of accurate options order origin codes.

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<sup>1</sup> That action was brought on behalf of NYSE Arca, Inc., Cboe Exchange, Inc., Miami International Securities Exchange, LLC, Nasdaq ISE, LLC, Nasdaq Phlx LLC, and NYSE American LLC.

## SUMMARY

On MIAX PEARL's behalf, FINRA's Department of Market Regulation, Options Regulation section, reviewed the firm's compliance with MIAX PEARL's rules and federal securities laws and regulations governing the use of origin codes. From December 2018 through May 2022, Morgan Stanley routed to MIAX PEARL, 660,321 options orders with an inaccurate origin code, resulting in 19,850 executions with a volume of 86,913 contracts.

## FACTS AND VIOLATIVE CONDUCT

1. Applicable MIAX PEARL rules require that when accepting an order, a member must obtain and record an appropriate code to identify the origin of the order.
2. From December 2018 through May 2022, Morgan Stanley unintentionally submitted options orders for several of its customers with an inaccurate origin code. These orders were routed to and executed on multiple options exchanges, including 660,321 mismarked orders routed to MIAX PEARL, which resulted in 19,850 executions with a volume of 86,913 contracts.
3. The majority of the mismarked orders (646,694) were routed to MIAX PEARL between January 2021 and April 2021 and resulted from orders for two customers being marked as "Customer" instead of "Professional Customer." Morgan Stanley identified that the origin codes affixed to the two customers' options orders should be changed to "Professional Customer" starting January 1, 2021 during the firm's supervisory review conducted in the fourth quarter of 2020. Due to human error, the firm did not timely make the change.
4. The remaining mismarked orders routed to MIAX PEARL were caused by other issues, including: (1) mismarked the origin code by the client; (2) improper set up of the origin code upon onboarding; and (3) mismarking of the origin code by the firm trader.<sup>2</sup>
5. The mismarked orders Morgan Stanley routed caused it to underpay Pearl fees. Additionally, each instance in which Morgan Stanley routed a mismarked order potentially had adverse consequences, such as inadvertently impacting the priority of order execution, creating an inaccurate audit trail and inaccurate order records, reporting trades to OCC with inaccurate trade details, and impeding MIAX PEARL's ability to surveil for and detect potential violations of its rules and federal securities laws.<sup>3</sup>

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<sup>2</sup> Morgan Stanley identified many of these mismarked orders in connection with its supervisory reviews, and the underlying causes that lead to the inaccurate origin codes were remediated.

<sup>3</sup> The Firm represents it implemented an enhancement to its supervisory process whereby a Firm analyst uses a T+1 surveillance report to confirm that any changes the Firm identifies as necessary to the origin code for its customers are promptly implemented. Additionally, the Firm subsequently developed a surveillance alert that is generated for any customer that has orders marked with more than one origin code and provided additional training related to the designation of its customers' origin codes.

6. By marking orders with incorrect origin codes from December 2018, through May 2022, the firm violated the following laws and rules:
  - a. Section 17(a)(1) of the Exchange Act and Rule 17a-3(a)(6)(i) thereunder requiring firms to make and maintain a memorandum of each order, and any other instruction, that contains the terms and conditions of the order.
  - b. Chapter VIII of MIAX PEARL Rules, which incorporate by reference MIAX Rule 800, requiring each Member to make, keep current and preserve such books and records as MIAX may prescribe and as may be prescribed by the Exchange Act and the rules and regulations thereunder.
  - c. MIAX PEARL Rule 513, which requires each Member, when entering orders on the MIAX PEARL, to submit trade information in such form as may be prescribed by MIAX PEARL in order to allow MIAX PEARL to properly prioritize and match orders and quotations, and report resulting transactions to the OCC.
  - d. Chapter III of MIAX PEARL Rules, which incorporate by reference MIAX Rule 300, which prohibits a Member from violating the Exchange Act or rules thereunder, MIAX rules, or OCC rules as they relate to reporting or clearing any MIAX transactions.

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

A censure and a fine of \$360,000 (\$21,705 payable to MIAX PEARL); and

Disgorgement of \$15,334.96.<sup>4</sup>

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 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 sanctions imposed herein shall be effective on a date set by MIAX PEARL.

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<sup>4</sup> The disgorgement addresses the underpayment of MIAX Emerald fees. The remainder of the fine shall be allocated to Cboe Exchange Inc., Cboe C2 Exchange Inc., Cboe BZX Exchange, Inc., Cboe EDGX Exchange, Inc., MIAX Emerald, LLC, Nasdaq GEMX LLC, Nasdaq Options Market, and NYSE Arca, Inc. for similar violations.

## 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;
- 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 I understand and acknowledge that FINRA does not represent or advise me and I cannot rely on FINRA or FINRA staff members for legal advice; 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.

october 30, 2024

Date

Respondent  
Morgan Stanley & Co., LLC

By: Samantha Schreiber

Name: Samantha Schreiber

Title: Authorized signatory

Reviewed by:

Christian Kemnitz, Esq.  
Christian Kemnitz, Esq.  
Katten Muchin Rosenman LLP  
525 W. Monroe Street  
Chicago, Illinois 60661  
Phone: (312) 902-5379  
Counsel for Respondent

Accepted by Miami International Securities Exchange, LLC:

October 31, 2024

Date

Edward Deitzel

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

Decision of the Business Conduct Committee:

Accept       Decline

October 31, 2024

Date

Edward Deitzel

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

October 30, 2024

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Date

By: Samantha Schreiber

Name: Samantha Schreiber

Title: Authorized Signatory