

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-21825

In the Matter of

Morgan Stanley & Co. LLC,

Respondent.

**PROPOSED PLAN OF
DISTRIBUTION**

ADMINISTRATIVE PROCEEDING
File No. 3-21826

In the Matter of

Pawan Kumar Passi,

Respondent.

I. OVERVIEW

1. The Division of Enforcement submits this Proposed Plan of Distribution (the “Plan”) to the United States Securities and Exchange Commission (the “Commission”) pursuant to Rule 1101 of the Commission’s Rules on Fair Fund and Disgorgement Plans (the “Commission’s Rules”), 17 C.F.R. § 201.1101. This Plan provides for the distribution of a Fair Fund (the “Morgan Stanley Fair Fund”) comprised of disgorgement, prejudgment interest, and civil money penalties paid by Morgan Stanley & Co. LLC (“Morgan Stanley”)¹ and Pawan Kumar Passi (“Passi” and collectively with Morgan Stanley, the “Respondents”)² pursuant to the Orders the Commission issued in the above-captioned matters.

2. As described more specifically below, the Plan seeks to compensate investors (the “Selling Shareholders”) for losses on their sales of blocks of shares of the Securities, as defined below, in the transactions listed on Exhibit B to the Plan (the “Transactions”) resulting from the conduct described in the Orders, as calculated using the methodology detailed in the Plan of

¹ See Order Instituting Administrative and Cease-and-Desist Proceedings, Pursuant to Sections 15(b) and 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order, Exchange Act Rel. No. 99336 (Jan. 12, 2024), Admin. Proc. File No. 3-21825 (the “Morgan Stanley Order”).

² See Order Instituting Administrative and Cease-and-Desist Proceedings, Pursuant to Sections 15(b) and 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order, Exchange Act Rel. No. 99337 (Jan. 12, 2024), Admin. Proc. File No. 3-21826 (the “Passi Order” and together with the Morgan Stanley Order, the “Orders”).

Allocation (attached as Exhibit A). Based on records and expert analysis obtained by the Commission staff during and after its investigation, the Commission staff has identified the harmed investors and has calculated each investor's harm. As a result, the Morgan Stanley Fair Fund is not being distributed according to a claims-made process, so procedures for making and approving claims in accordance with Rule 1101(b)(4) of the Commission's Rules, 17 C.F.R. § 201.1101(b)(4), are not applicable.

3. In the view of the Commission staff, this methodology constitutes a fair and reasonable allocation of the Morgan Stanley Fair Fund.

4. The Commission has custody of the Morgan Stanley Fair Fund and shall retain control of the assets of the Morgan Stanley Fair Fund. The Plan is subject to approval by the Commission, and the Commission retains jurisdiction over its implementation.

II. BACKGROUND

5. On January 12, 2024, the Commission issued the Orders. In the Orders, the Commission found that, from at least June 2018 through August 2021, Passi and another employee on Morgan Stanley's Equity Syndicate Desk in the Americas (the "Syndicate Desk") perpetrated a fraud involving large blocks of stock that the investment banking firm purchased from the Selling Shareholders. The Commission found that the two employees, in violation of duties of confidentiality and Morgan Stanley's policies, disclosed to certain buy-side investors non-public, potentially market-moving information, concerning impending "block trades" that the firm had been invited to bid on or was in the process of negotiating with selling shareholders. The Commission further found that Morgan Stanley failed to enforce information barriers to prevent material non-public information involving certain block trades from being discussed by the Syndicate Desk. According to the Morgan Stanley Order, by this conduct, Morgan Stanley generated more than \$138 million in profits across 28 transactions. The Commission found that Morgan Stanley and Passi willfully violated Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") and Rule 10b-5 thereunder, and that Morgan Stanley willfully violated Section 15(g) of the Exchange Act.

6. In the Morgan Stanley Order, the Commission ordered Morgan Stanley to disgorge \$138,297,046, and pay prejudgment interest of \$28,057,775, for a total of \$166,354,821, which would be partially offset by the value of forfeiture and restitution paid by Morgan Stanley pursuant to a January 11, 2024, non-prosecution agreement with the U.S. Attorney for the Southern District of New York in an overlapping criminal proceeding (the "Criminal Proceeding").³ The Commission further ordered Morgan Stanley to pay a civil penalty of \$83,000,000 to the Commission, and that the Commission would hold all funds paid pursuant to the Morgan Stanley Order pending a decision as to whether the Commission will seek to distribute them.

³ Any distribution in the Criminal Proceeding will be done by the criminal authorities and not under this Plan. To avoid a windfall, any Recovery (defined below) in the Criminal Proceeding will be offset from Preliminary Claimants' Recognized Losses, as further set forth in the Plan of Allocation. See Exhibit A (Plan of Allocation). For more information on the Criminal Proceeding, see <https://www.justice.gov/usao-sdny/pr/us-attorney-announces-agreements-morgan-stanley-and-former-senior-employee-pawan-passi>.

7. In the Passi Order, the Commission ordered Passi to pay a civil penalty of \$250,000 to the Commission, and that the Commission would hold all funds paid pursuant to the Passi Order pending a decision as to whether the Commission will seek to distribute them.

8. The Respondents have paid in full. They have collectively paid \$83,250,000 in civil penalties, and Morgan Stanley, after the offset of forfeiture and restitution paid in the Criminal Proceeding, has paid disgorgement and prejudgment interest totaling \$29,823,598. In total, the Respondents have paid \$113,073,598.

9. On September 27, 2024, the Commission issued an order⁴ that created the Morgan Stanley Fair Fund, consisting of the \$113,073,598 paid by the Respondents pursuant to the Orders.

10. The Morgan Stanley Fair Fund has been deposited in a Commission-designated account at the U.S. Department of the Treasury (the “Treasury”), and any interest accrued will be added to, and become a part of, the Morgan Stanley Fair Fund.

III. DEFINITIONS

As used in this Plan, the following definitions will apply:

11. **“Administrative Costs”** shall mean any administrative costs and expenses, including without limitation tax obligations, the fees and expenses of the Tax Administrator, and investment and banking costs.

12. **“Distribution Payment”** means a payment from the Morgan Stanley Fair Fund to a Payee in accordance with the terms of this Plan.

13. **“Excluded Party”** shall mean: (a) the Respondents, and the Respondents’ advisers, agents, nominees, assigns, creditors, heirs, distributees, spouses, parents, children, or controlled entities; (b) any Person who has been the subject of criminal charges related to the conduct described in the Orders or any related Commission action; and (c) any purchaser or assignee of another Person’s eligibility to obtain a recovery from the Morgan Stanley Fair Fund for value; provided, however, that this provision shall not be construed to exclude those Persons who obtained such a right by gift, inheritance or devise.

14. **“Final Determination Notice”** means the written notice sent by the Fund Administrator to: (a) any Preliminary Claimants who submitted a written dispute of the trade information set forth in the Plan Notice, notifying the Preliminary Claimant of his resolution of the dispute; and (b) those Preliminary Claimants who did not respond to the Plan Notice as described in paragraph 40, notifying the Preliminary Claimant that he, she, or it has been deemed an Unresponsive Preliminary Claimant. The Final Determination Notice will constitute the Fund Administrator’s final ruling regarding the status of the claim.

⁴ Order Creating and Consolidating Fair Funds and Setting Deadline to Submit a Proposed Plan of Distribution, Exchange Act Rel. No. 101215 (Sept. 27, 2024).

15. **“Morgan Stanley Fair Fund”** means the fund created by the Commission pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002 for the benefit of the investors harmed by Respondents’ violations described in the Orders.

16. **“Net Available Fair Fund”** means the Morgan Stanley Fair Fund, less Administrative Costs.

17. **“Payee”** means a Preliminary Claimant who is determined to have suffered a Recognized Loss pursuant to the Plan of Allocation, who is not an Excluded Party or an Unresponsive Preliminary Claimant, and who will receive a Distribution Payment.

18. **“Person”** means natural individuals as well as legal entities such as corporations, partnerships, or limited liability companies.

19. **“Plan Notice”** means a written notice from the Fund Administrator to each Preliminary Claimant regarding the Commission’s approval of the Plan, including, as appropriate: a statement characterizing the distribution; a link to the approved Plan posted on the Commission’s website and instructions for requesting a copy of the Plan; the trade date and the number of shares sold by the Selling Shareholder to the executing bank; specification of any information needed from the Preliminary Claimant to prevent him, her, or it from being deemed an Unresponsive Preliminary Claimant, including completed tax forms and payment information; the procedure for the distribution as set forth in the Plan; and the name and contact information for the Fund Administrator as a resource for additional information or to contact with questions regarding the distribution.

20. **“Plan of Allocation”** means the methodology to calculate if a Preliminary Claimant has suffered a Recognized Loss. The Plan of Allocation is attached as Exhibit A.

21. **“Preliminary Claimant”** means the Selling Shareholders, or their lawful successors, who may have suffered losses on their sales of blocks of shares of the Securities in the Transactions as a result of the conduct described in the Orders; or those Persons who request a Plan Notice as described in paragraph 39 that are determined by the Fund Administrator to be Selling Shareholders or their lawful successors, who may have suffered losses on their sales of blocks of shares of the Securities in the Transactions as a result of the conduct described in the Orders

22. **“Recognized Loss”** means the amount of loss calculated for each Transaction in accordance with the Plan of Allocation.

23. **“Recovery”** means any compensation paid to the Selling Shareholders for the loss that resulted from the conduct described in the Orders that was received from the Criminal Proceedings or another source (*e.g.*, private settlement).

24. **“Selling Shareholders”** are the sellers in the Transactions identified by Commission staff based on records and expert analysis obtained during and after its investigation.

25. “**Securities**” are the stocks sold in the Transactions, traded under the following symbols: ALNY, AMD, BIGC, CSX, EDIT, GOOS, HSY, INGN, INVH, LULU, MEDP, MORF, MRNA, MYOK, NRZ, PING, PLTR, QSR, RVLV, SBLK, SPRB.

26. “**Transactions**” are the 28 transactions referenced in paragraph 66 of the Morgan Stanley Order and listed in Exhibit B to this Plan.

27. “**Unresponsive Preliminary Claimant**” means a Preliminary Claimant whose address the Fund Administrator has not been able to verify and/or who does not timely respond to the Fund Administrator’s attempts to obtain information, including any information sought in the Plan Notice. Unresponsive Preliminary Claimants will not be eligible for a distribution under the Plan.

IV. TAX COMPLIANCE

28. On October 11, 2024, the Commission appointed Miller Kaplan Arase LLP as the tax administrator (the “Tax Administrator”) for the Morgan Stanley Fair Fund to handle the tax obligations of the Morgan Stanley Fair Fund.⁵ The Tax Administrator will be compensated for reasonable fees and expenses from the Morgan Stanley Fair Fund in accordance with its 2022-2024 Engagement Letter Agreement with the Commission.⁶

29. The Morgan Stanley Fair Fund constitutes a Qualified Settlement Fund (“QSF”) under Section 468B(g) of the Internal Revenue Code of 1986, as amended, 26 U.S.C. § 468B(g), and related regulations, 26 C.F.R. §§ 1.468B-1 through 1.468B-5. The Tax Administrator is the administrator of such QSF for purposes of Treas. Reg. § 1.468B-2(k)(3)(I) and shall satisfy the tax-related administrative requirements imposed by Treas. Reg. § 1.468B-2, including, but not limited to:

- (a) Obtaining a taxpayer identification number;
- (b) Requesting funds necessary to timely pay all applicable taxes, paying taxes for which the Tax Administrator has received funds, and filing applicable returns; and
- (c) Fulfilling any information reporting or withholding requirements imposed on distributions from the Morgan Stanley Fair Fund.

30. All tax obligations will be paid from the Morgan Stanley Fair Fund, subject to the review and approval of Commission staff.

⁵ See Order Appointing Tax Administrator, Exchange Act Rel. No. 101317 (Oct. 11, 2024).

⁶ See Omnibus Order Directing the Engagement of Two Tax Administrators for Appointment on a Case-By-Case Basis in Administrative Proceedings that Establish Distribution Funds, Exchange Act Rel. No. 94845 (May 4, 2022).

V. FUND ADMINISTRATOR

31. Joshua E. Braunstein is proposed to be the fund administrator for the Morgan Stanley Fair Fund (the “Fund Administrator”). As a Commission employee, the Fund Administrator shall receive no compensation, other than his regular salary as a Commission employee, for his services in administering the Morgan Stanley Fair Fund. In accordance with Rule 1105(c) of the Commission’s Rules,⁷ no bond is required since the Fund Administrator is a Commission employee.

32. The Fund Administrator will be responsible for administering the Morgan Stanley Fair Fund in accordance with the Plan. This will include, among other things, taking reasonable steps to obtain accurate contact and payment information for Preliminary Claimants; disseminating the Plan Notice; reviewing responses to the Plan Notice and reviewing any disputes received; sending Final Determination Notices; cooperating with the Tax Administrator to satisfy any tax liabilities and to ensure compliance with income tax reporting requirements, including but not limited to Foreign Account Tax Compliance Act (FATCA); working with the Tax Administrator to establish a Reserve, as defined below, and to prepare accountings; as ordered by the Commission, causing the Morgan Stanley Fair Fund to be disbursed in accordance with the Plan; and working with the Commission staff to research and reconcile uncashed checks and unreceived payments and reissuing payments when possible.

33. To carry out the purposes of this Plan, the Fund Administrator is authorized to make and implement immaterial changes to the Plan upon agreement of the Commission staff. If a change is deemed to be material by the Fund Administrator, the Commission staff will seek approval from the Commission to amend the Plan prior to implementation.

34. The Fund Administrator may extend any procedural deadline contained in the Plan for good cause shown, if agreed upon by the Commission staff.

VI. PLAN PROCEDURES

Specification of Preliminary Claimants

35. Based on records and expert analysis obtained by the Commission staff during and after its investigation, the Commission staff has identified the Preliminary Claimants and has calculated each Preliminary Claimant’s losses, if any. Preliminary Claimants are limited to the Selling Shareholders, or their lawful successors, who may have suffered losses on their sales of blocks of shares of the Securities in the Transactions listed in Exhibit B.

Procedures for Locating and Notifying Preliminary Claimants

36. Within thirty (30) days of Commission approval of the Plan, the Fund Administrator will send the Plan Notice to each Preliminary Claimant’s last known email address (if known) and/or mailing address.

⁷ 17 C.F.R. § 201.1105(c).

Undeliverable Mail

37. If any mailing is returned as undeliverable, the Fund Administrator will make the best practicable efforts to ascertain a Preliminary Claimant's correct address. If another address is obtained, the Fund Administrator will then resend the mailing to the Preliminary Claimant's new address within thirty (30) days of receipt of the returned mail. If the mailing is returned, and the Fund Administrator, despite best practicable efforts, is unable to find a Preliminary Claimant's correct address or contact information, the Fund Administrator, in his discretion, may deem such Preliminary Claimant an Unresponsive Preliminary Claimant.

38. Any Preliminary Claimant who relocates or otherwise changes contact information after receipt of the Plan Notice must promptly communicate any change in address or contact information to the Fund Administrator.

Procedures to Request Plan Notice

39. Any Person who does not receive a Plan Notice as described in paragraph 36, but who is aware of this Plan (e.g., through other Preliminary Claimants or on www.sec.gov) and believes they should be included as a Preliminary Claimant, should contact the Fund Administrator within sixty (60) days from the approval of the Plan to establish that they should be considered a Preliminary Claimant. Such Person should include with that communication, documentation sufficient to support their assertion that they should be considered a Preliminary Claimant, as well as contact information (physical address, telephone number, and email address, if available) for responsive communications. The Fund Administrator will send the Person a Plan Notice within thirty (30) days of receiving the Person's documentation, if the Fund Administrator determines that the Person should have received a Plan Notice.

Failure to Respond to Plan Notice

40. If a Preliminary Claimant is requested to respond and fails to respond within twenty-one (21) days from the initial mailing of the Plan Notice, the Fund Administrator will make no fewer than two (2) attempts to contact the Preliminary Claimant by a different contact method (e.g., telephone or email if the Plan Notice was mailed), if available; and by the initial contact method if an alternative is unavailable. The second attempt will in no event take place more than thirty (30) days from the initial mailing of the Plan Notice. If a Preliminary Claimant fails to respond to the Fund Administrator's contact attempts as described in this paragraph, the Fund Administrator, in his discretion, may deem such Preliminary Claimant an Unresponsive Preliminary Claimant.

Dispute Process

41. Disputes will be limited to the trade information set forth in the Plan Notice. If a Preliminary Claimant disagrees with the trade information set forth in the Plan Notice, such dispute must be detailed in writing and returned to the Fund Administrator along with any supporting documentation within 21 days of the final mailing of the Plan Notice to that Preliminary Claimant. The Fund Administrator will evaluate the dispute, and such evaluation

will include a review of the written dispute as well as any supporting documentation. Fund Administrator will notify the Preliminary Claimant of his resolution of the dispute in the Final Determination Notice.

Final Determination Notices

42. Within sixty (60) days of the final mailing of the Plan Notice to the Preliminary Claimant, the Fund Administrator will send a Final Determination Notice to those Preliminary Claimants who submitted a written dispute of the trade information set forth in the Plan Notice, notifying the Preliminary Claimant of his resolution of the dispute; and to those Preliminary Claimants who have not responded to the Plan Notice as described in paragraph 40, except for those whose Plan Notice were returned as undeliverable, notifying the Preliminary Claimant that he, she, or it has been deemed an Unresponsive Preliminary Claimant. The Fund Administrator will not send a Final Determination Notice to a Preliminary Claimant if their Plan Notice was returned as “undeliverable.” The Final Determination Notice will constitute the Fund Administrator’s final ruling regarding the eligibility status and loss calculation and is not subject to appeal.

Distribution Methodology

43. Each Preliminary Claimant’s Recognized Loss has been calculated in accordance with the Plan of Allocation. All Preliminary Claimants who are determined to have a Recognized Loss, who are not deemed an Excluded Party or an Unresponsive Preliminary Claimant, and who will receive a Distribution Payment, will be deemed a Payee.

Establishment of a Reserve

44. Before determining the amount of funds available for distribution and calculating each Payee’s Distribution Payment, the Fund Administrator, in conjunction with the Tax Administrator, will establish a reserve to pay Administrative Costs and to accommodate any unexpected expenditures (the “Reserve”).

45. After all Distribution Payments are made and Administrative Costs paid, any remaining amounts in the Reserve will become part of the Residual described in paragraph 58.

Preparation of the Payment File

46. Within one hundred eighty (180) days of Commission approval of the Plan, the Fund Administrator will compile the Payee information, including the name, address, calculated Recognized Loss, and the amount of the Distribution Payment for all Payees (the “Payee List”).

Distribution of the Morgan Stanley Fair Fund

47. Pursuant to Rule 1101(b)(6) of the Commission’s Rules, 17 C.F.R. § 201.1101(b)(6), the Commission staff will obtain an order from the Commission authorizing the disbursement of funds from the Net Available Fair Fund for distribution to Payees in accordance

with the Payee List. The Fund Administrator will have checks or electronic payments issued by the Treasury in accordance with the Payee List.

48. All checks will bear a stale date of one year from the date of issuance. Checks that are not negotiated by the stale date will be voided, and the Fund Administrator will request that the Treasury stop payment on those checks. A Payee's claim will be extinguished if he, she, or it fails to negotiate his, her or its check by the stale date, and the funds will remain in the Morgan Stanley Fair Fund, except as provided in paragraph 52.

49. All Distribution Payments will be preceded or accompanied by a communication that includes, as appropriate: (a) a statement characterizing the distribution; (b) a statement that the tax treatment of the distribution is the responsibility of each Payee and that the Payee should consult their tax advisor for advice regarding the tax treatment of the distribution; however, any backup withholding required under IRC § 3406(a) and the regulations promulgated thereunder, or withholding required with respect to nonresident aliens ("NRAs") under Chapter 3 of the IRC, or FATCA-subject Payees under Chapter 4 of the IRC, will be withheld as required from the Distribution Payment and remitted to the Internal Revenue Service on the Payee's behalf; (c) a statement that checks will be void and cannot be reissued after one year from the date the original check was issued; and (d) contact information for the Fund Administrator for questions regarding the Distribution Payment. The letter or other mailings to Payees characterizing a Distribution Payment will be prepared by the Tax Administrator and provided to the Commission staff for review and approval.

50. All Distribution Payments, either on their face or in the accompanying mailing, will clearly indicate that the money is being distributed from the Morgan Stanley Fair Fund established by the Commission to compensate investors for harm they suffered because of securities law violations.

Post Distribution; Handing of Returned or Uncashed Checks; and Reissues

51. The Fund Administrator shall use his best efforts to make use of commercially available resources and other reasonably appropriate means to locate all Payees whose checks are returned to the Fund Administrator as "undeliverable." If new address information becomes available, the Fund Administrator will cause the check to be sent to the new address. If new address information is not available after a diligent search (and in no event no later than one year after the initial mailing of the original check) or if the distribution check is returned again, the check shall be voided, and the Fund Administrator, in his discretion, may remove such Payee from the distribution and the allocated Distribution Payment will remain in the Morgan Stanley Fair Fund for distribution, if feasible, to the remaining Payees.

52. The Fund Administrator will have checks or electronic payments reissued to Payees upon the receipt of a valid, written request from the Payee if made prior to the initial stale date. In cases where a Payee is unable to endorse a Distribution Payment check as written (*e.g.*, name changes, IRA custodian changes, or recipient is deceased) and the Payee or a lawful representative request the reissuance of a Distribution Payment check in a different name, the Fund Administrator will request, and must receive, documentation to support the requested

change. The Fund Administrator will review the documentation to determine the authenticity and propriety of the change request. If, in the discretion of the Fund Administrator, such change request is properly documented, the Fund Administrator will have an appropriately redrawn Distribution Payment issued to the requesting party. Reissued checks will be void at the later of one (1) year from issuance of the original check or one (1) year from the reissuance, and in no event will a check be reissued after one (1) year from the date of the original issuance without the approval of Commission staff.

53. The Fund Administrator will work with the Commission staff to maintain information about uncashed checks and any returned items due to non-delivery, insufficient addresses, and/or other deficiencies. The Fund Administrator is responsible for researching and reconciling errors and reissuing payments when possible. The Fund Administrator, working with the Commission staff, is also responsible for accounting for all payments. The amount of all uncashed and undelivered payments will continue to be held in the Morgan Stanley Fair Fund.

54. The Fund Administrator will make and document its best efforts to contact Payees to follow-up on the status of uncashed distribution checks (other than those returned as “undeliverable”) or undelivered electronic payments and take appropriate action to follow-up on the status of those payments. The Fund Administrator may cause the reissue of such checks and payments, subject to the time limits detailed herein.

55. At the discretion of the Fund Administrator, certain costs that were not factored into the Reserve, such as bank fees for the return of a payment, may reduce the Payee’s Distribution Payment. In such situations, the Fund Administrator will immediately notify the Tax Administrator of the reduction in the Distribution Payment.

Receipt of Additional Funds

56. Should any additional funds be received pursuant to Commission or Court order, agreement, or otherwise, prior to the Commission’s termination of the Morgan Stanley Fair Fund, such funds will be added to and become a part of the Morgan Stanley Fair Fund and distributed, if feasible, in accordance with the Plan.

Disposition of Undistributed Funds

57. If funds remain following the initial distribution, the Fund Administrator, in consultation with the Commission staff, may seek subsequent distribution(s) of any remaining funds in accordance with the Plan and pursuant to the Commission’s Rules.

58. A residual will be established for any amounts remaining after the final disbursement to Payees from the Morgan Stanley Fair Fund and the payment of all Administrative Costs (the “Residual”). The Residual may include funds from, among other things, amounts remaining in the Reserve, distribution checks that have not been cashed, checks that were not delivered or were returned to the Commission, and tax refunds received due to the Fair Fund’s overpayment of taxes or for waiver of IRS penalties.

59. Once the Fund Administrator, in consultation with the Commission staff, deems further distribution of the Morgan Stanley Fair Fund to investors infeasible, the Fund Administrator will direct the issuing financial institution to stop payment on any uncashed Distribution Payments, and any remaining funds will become part of the Residual.

60. All funds remaining in the Residual that are infeasible to distribute to investors will be transferred to the Treasury after the final accounting is approved by the Commission. Returning such money to the Respondents would be inconsistent with the equitable principle that no person should profit from their own wrongdoing. Therefore, in these circumstances, distributing disgorged funds to the Treasury is the most equitable alternative.

Administrative Costs

61. All Administrative Costs will be paid from the Morgan Stanley Fair Fund in accordance with the Commission's Rules.

Accountings

62. When all funds have been disbursed, except for the Residual described in paragraph 58 of the Plan, the Fund Administrator will submit a final accounting pursuant to Rule 1105(f) of the Commission's Rules, 17 C.F.R. § 201.1105(f), for the Commission's approval prior to termination of the Morgan Stanley Fair Fund and discharge of the Fund Administrator. Because the funds are being held in a Commission-designated account at the Treasury and the Fund Administrator is a Commission employee, no interim accountings will be made.

Termination of the Morgan Stanley Fair Fund

63. The Morgan Stanley Fair Fund will be eligible for termination and the Fund Administrator will be eligible for discharge after all the following have occurred (a) a final accounting, in a standard accounting format provided by the Commission staff, has been submitted by the Fund Administrator and approved by the Commission; and (b) all Administrative Costs have been paid. Once the Commission has approved the final accounting, the Commission staff will seek an order from the Commission authorizing the: (a) transfer of the Residual that is infeasible to return to investors, and any amounts returned to the Morgan Stanley Fair Fund in the future that is infeasible to return to investors, to the general fund of the Treasury, subject to Section 21F(g)(3) of the Exchange Act; (b) discharge of the Fund Administrator; and (c) termination of the Morgan Stanley Fair Fund.

VII. NOTICE OF PROPOSED PLAN AND OPPORTUNITY FOR COMMENT

64. The Notice of the Proposed Plan of Distribution and Opportunity for Comment (the "Notice") shall be published on the Commission's website: <https://www.sec.gov/litigation/fairfundlist.htm>. The Commission staff will also send the Notice of the Proposed Plan of Distribution and Opportunity for Comment to the last known physical or email address of each Selling Shareholder listed on Exhibit B upon the publication of the Proposed Plan for Comment. Any Person wishing to comment on the Plan must do so in writing

by submitting their comments within thirty (30) days of the date of the Notice (a) to the Office of the Secretary, United States Securities and Exchange Commission, 100 F Street, N.E., Washington, D.C. 20549-1090; (b) by using the Commission's Internet comment form (<https://www.sec.gov/litigation/admin.shtml>); or (c) by sending an e-mail to rule-comments@sec.gov. Comments submitted by e-mail or via the Commission's website should include "Administrative Proceeding File Nos. 3-21825 and 3-21826 in the subject line. Comments received will be publicly available. Persons should only submit comments that they wish to make publicly available.

Exhibit A

PLAN OF ALLOCATION

This Plan of Allocation¹ is designed to compensate the Selling Shareholders for losses on their sales of blocks of shares of the Securities in the Transactions (listed on Exhibit B to the Plan) resulting from the conduct described in the Orders and as calculated using the methodology detailed below. Investors who did not suffer losses on sales of blocks of shares of the Securities in the Transactions are ineligible to recover under this Plan. Based on records and expert analysis obtained by the Commission staff during and after its investigation, the Commission staff has identified the Preliminary Claimants who may have suffered losses on their sales of blocks of shares of the Securities in the Transactions as a result of the conduct described in the Orders.

I. Methodology

Each Preliminary Claimant's loss ("Recognized Loss") has been calculated for each of the Transactions as the measured excess movement in the Security's price on its respective trade date, multiplied by the "deal size" (that is, the number of shares the Preliminary Claimant sold to the executing bank in the Transaction multiplied by the block sale price). The excess price movement was measured for each of the Transactions on its respective trade date through a statistical analysis of the Security's price movement on the respective trade date (after controlling for overall market movements on the dates) compared to the typical market-adjusted price movement associated with a set of comparable (in terms of recency and deal size) block trades not conducted exclusively through Morgan Stanley.

II. Recognized Loss

If the Recognized Loss calculates to a negative number, reflecting a gain, then the Recognized Loss will be \$0.00. If multiple Selling Shareholders participated in a Transaction, the Recognized Loss for that Transaction will be divided among them in proportion to their respective number of shares in the Transaction.

To avoid payment of a windfall, the Recognized Loss will be reduced by the amount of the Recovery, to the extent known by the Fund Administrator.

Any Preliminary Claimant who suffered a Recognized Loss pursuant to this Plan of Allocation, who is not an Excluded Party or an Unresponsive Preliminary Claimant, and who will receive a Distribution Payment, will be deemed a Payee.

III. Allocation of Funds

If the Net Available Fair Fund is equal to or exceeds the sum of Recognized Losses of all Payees, each Payee's distribution amount will equal his, her or its Recognized Loss, plus "Reasonable Interest" if applicable. If the Net Available Fair Fund is less than the sum of the Recognized Losses of all Payees, each Payee's distribution amount will equal his, her, or its, "Pro Rata Percentage" of the Net Available Fair Fund (and no Reasonable Interest).

¹ All capitalized terms used in this Plan of Allocation but not defined are used as defined in the Plan.

A. Calculating a Payee's Pro-Rata Percentage

This computation is intended to measure Payees' Recognized Losses against one another. Each Payee's *Pro-Rata* Percentage will be calculated as the ratio of their Recognized Loss to the sum of Recognized Losses of all Payees.

B. Offset for Recovery

To avoid payment of a windfall, a Preliminary Claimant's distribution amount will be no larger than his, her, or its Recognized Loss minus the amount of the Recovery, to the extent known by the Fund Administrator, plus any Reasonable Interest awarded. That is, the distribution amount will be capped at the Recognized Loss less the Recovery, plus any Reasonable Interest awarded.

C. Reasonable Interest

If the Net Available Fair Fund exceeds the amount necessary to pay all Payees their Recognized Losses in full (minus their Recovery), the Fund Administrator, in consultation with the Commission staff, may include interest in the distribution amount to compensate Payees for the time value of money. Reasonable Interest will be calculated using the Short-term Applicable Federal Rate plus three percent (3%), compounded quarterly from the first day of the month following the respective trade date through the approximate date of the disbursement of the funds. If there are insufficient funds to pay Reasonable Interest in full, each Payee's Reasonable Interest amount will be equal to his, her or its *Pro Rata* Percentage of the available funds.

D. Distribution Payment

Each Payee will receive a Distribution Payment equal to his, her, or its distribution amount. In no event will a Payee receive from the Morgan Stanley Fair Fund more than its Recognized Loss less the Recovery, plus Reasonable Interest, if applicable.

Exhibit B

Transaction Identification	Selling Shareholder No.	Ticker	Trade Date	No. of Shares Sold by Selling Shareholder to Executing Bank¹	Executing Bank
1	SS1	LULU	6/7/2018	6,700,000 shares	Morgan Stanley & Co. LLC
2	SS2	MEDP	6/11/2018	3,000,000 shares	Morgan Stanley & Co. LLC
3	SS3	GOOS	6/20/2018	8,400,000 shares	Credit Suisse Securities (USA) LLC/Barclays Capital, Inc./CIBC WORLD MARKETS INC.
3	SS4	GOOS	6/20/2018	1,500,000 shares	Credit Suisse Securities (USA) LLC/Barclays Capital, Inc./CIBC WORLD MARKETS INC.
3	SS5	GOOS	6/20/2018	100,000 shares	Credit Suisse Securities (USA) LLC/Barclays Capital, Inc./CIBC WORLD MARKETS INC.
4	SS6	AMD	7/30/2018 ²	22,000,000 shares	Credit Suisse Securities (USA) LLC
5	SS2	MEDP	8/7/2018	5,175,000 shares	Morgan Stanley & Co. LLC
6	SS7	HSY	11/7/2018	4,050,000 shares	Morgan Stanley & Co. LLC
7	SS8	MYOK	2/13/2019	4,168,899 shares	Morgan Stanley & Co. LLC
8	SS9	NRZ	2/19/2019	46,297,096 shares	Morgan Stanley & Co. LLC
9	SS10	INVH	3/19/2019	40,000,000 shares	Morgan Stanley & Co. LLC
9	SS11	INVH	3/19/2019	3,000,000 shares	Morgan Stanley & Co. LLC
10	SS1	LULU	3/28/2019	4,000,000 shares	Morgan Stanley & Co. LLC

¹ For some trades, the figure in this column is the sum of (i) the base trade and (ii) a “greenshoe” or overallotment option that may have been exercised on a different date than the base trade. A “greenshoe” or overallotment option is a provision that grants the executing bank the right to purchase additional shares within a number of days after the base trade is executed.

² The date listed for this trade is the date of Morgan Stanley’s bid on the block; the trade was executed (with Credit Suisse) on a later date.

Transaction Identification	Selling Shareholder No.	Ticker	Trade Date	No. of Shares Sold by Selling Shareholder to Executing Bank³	Executing Bank
11	SS8	ALNY	5/2/2019	10,554,134 shares	Morgan Stanley & Co. LLC
12	SS12	QSR	8/9/2019	24,000,000 shares	Morgan Stanley & Co. LLC
13	SS12	QSR	9/3/2019	16,960,717 shares	Morgan Stanley & Co. LLC
14	SS13	CSX	10/17/2019	18,769,337 shares	Goldman Sachs & Co. LLC
15	SS14	MRNA	5/18/2020	20,240,000 shares	Morgan Stanley & Co. LLC
16	SS15	EDIT	6/23/2020	6,900,000 shares	Morgan Stanley & Co. LLC
17	SS16	RVLV	8/17/2020	5,000,000 shares	Morgan Stanley & Co. LLC
18	SS16	RVLV	9/10/2020	4,000,000 shares	Morgan Stanley & Co. LLC
19	SS16	RVLV	11/17/2020	5,128,817 shares	Morgan Stanley & Co. LLC
20	SS17	BIGC	12/10/2020	1,400,000 shares	Morgan Stanley & Co. LLC
20	SS18	BIGC	12/10/2020	500,000 shares	Morgan Stanley & Co. LLC
21	SS19	PLTR	2/18/2021	13,170,469 shares	Morgan Stanley & Co. LLC
22	SS20	SPRB	5/19/2021	475,000 shares	Morgan Stanley & Co. LLC
23	SS21	SBLK	5/25/2021	10,630,000 shares	Morgan Stanley & Co. LLC
24	SS20	INGN	6/2/2021	680,000 shares	Morgan Stanley & Co. LLC
25	SS22	PING	6/14/2021	6,487,000 shares	Morgan Stanley & Co. LLC
26	SS21	SBLK	6/21/2021	2,382,775 shares	Morgan Stanley & Co. LLC

³ For some trades, the figure in this column is the sum of (i) the base trade and (ii) a “greenshoe” or overallotment option that may have been exercised on a different date than the base trade. A “greenshoe” or overallotment option is a provision that grants the executing bank the right to purchase additional shares within a number of days after the base trade is executed.

Transaction Identification	Selling Shareholder No.	Ticker	Trade Date	No. of Shares Sold by Selling Shareholder to Executing Bank⁴	Executing Bank
27	SS12	QSR	8/4/2021	9,608,744 shares	Morgan Stanley & Co. LLC
28	SS20	MORF	8/6/2021	595,000 shares	Morgan Stanley & Co. LLC

⁴ For some trades, the figure in this column is the sum of (i) the base trade and (ii) a “greenshoe” or overallotment option that may have been exercised on a different date than the base trade. A “greenshoe” or overallotment option is a provision that grants the executing bank the right to purchase additional shares within a number of days after the base trade is executed.