

**THE NASDAQ STOCK MARKET LLC
NOTICE OF ACCEPTANCE OF AWC**

Certified, Return Receipt Requested

**TO: Morgan Stanley & Co. LLC
Mr. S. Anthony Taggart
Executive Director
1585 Broadway
New York, NY 10036**

**FROM: The NASDAQ Stock Market LLC ("Nasdaq")
c/o Financial Industry Regulatory Authority ("FINRA")
Department of Market Regulation
9509 Key West Avenue
Rockville, MD 20850**

DATE: April 5, 2017

RE: Notice of Acceptance of Letter of Acceptance, Waiver and Consent No. 20120316421-01

Please be advised that your above-referenced Letter of Acceptance, Waiver and Consent ("AWC") has been accepted on **April 5, 2017** by the Nasdaq Review Council's Review Subcommittee, or by the Office of Disciplinary Affairs on behalf of the Nasdaq Review Council, pursuant to Nasdaq Rule 9216. A copy of the AWC is enclosed herewith.

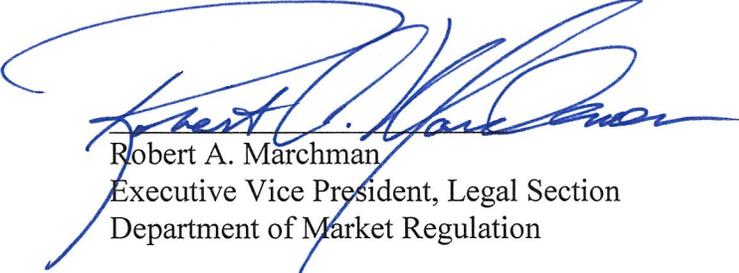
You are again reminded of your obligation, if currently registered, immediately to update your Uniform Application for Broker-Dealer Registration ("Form BD") to reflect the conclusion of this disciplinary action. Additionally, you must also notify FINRA (or NASDAQ if you are not a member of FINRA) in writing of any change of address or other changes required to be made to your Form BD.

You are reminded that Section I of the attached Letter of Acceptance, Waiver, and Consent includes an undertaking. In accordance with the terms of the AWC, a registered principal of the firm is required to notify the Compliance Assistant, Legal Section, Market Regulation Department, 9509 Key West Avenue, Rockville, MD 20850, of completion of the undertaking.

You will be notified by the Registration and Disclosure Department regarding sanctions if a suspension has been imposed and by NASDAQ's Finance Department regarding the payment of any fine if a fine has been imposed.

Morgan Stanley & Co. LLC
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If you have any questions concerning this matter, please contact Christian J. Cannon, Senior Counsel,
at (240) 386-5670.



Robert A. Marchman
Executive Vice President, Legal Section
Department of Market Regulation
Signed on behalf of NASDAQ

Enclosure

FINRA District 10 – New York
Michael Solomon
Senior Vice President and Regional Director
(Via email)

Christian T. Kemnitz, Esq.
Katten Muchin Rosenman LLP
525 W. Monroe Street
Chicago, IL 60661-3693
Counsel for Respondent

**THE NASDAQ STOCK MARKET LLC
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 20120316421-01**

TO: The NASDAQ Stock Market LLC
c/o Department of Market Regulation
Financial Industry Regulatory Authority ("FINRA")

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

Pursuant to Rule 9216 of The NASDAQ Stock Market LLC ("Nasdaq") Code of Procedure, Morgan Stanley & Co. LLC (the "Firm") submits this Letter of Acceptance, Waiver and Consent ("AWC") for the purpose of proposing a settlement of the alleged rule violations described below. This AWC is submitted on the condition that, if accepted, Nasdaq 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 Nasdaq, or to which Nasdaq 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 Nasdaq:

BACKGROUND

The Firm is a member of FINRA since June 5, 1970, and Nasdaq since July 12, 2006. Its registrations remain in effect. The Firm has no relevant disciplinary history.

SUMMARY

In connection with Review No. 20120316421 the Market Manipulation Investigations Team of FINRA's Market Regulation Department ("Market Regulation") reviewed the Firm's compliance with Nasdaq rules concerning the Nasdaq Closing Cross and related supervision during the period February 1, 2011 through June 30, 2012 (the "review period"). As a result of its review, Market Regulation found violations of Nasdaq Rules 2110 and 3010 as set forth below.

FACTS AND VIOLATIVE CONDUCT

FACTS

The review focused on a trading strategy that was created and employed by registered representatives of the Firm's Exchange Traded Funds ("ETF") Trading Desk and Delta One Strategies Group. The trading strategy was executed by an algorithmic trading system that combined order placement logic with a general trading platform used by the ETF Trading Desk – a desk comprised of traders and supervisors who developed, implemented, monitored and reviewed the strategy. Outside of the interested ETF Trading Desk and Delta One personnel, an independent review of the strategy was not conducted by the Firm's Regulatory Control Group ("RCG"), Compliance Department, or any other appropriately registered personnel of the Firm.

The trading strategy participated in the Nasdaq Closing Cross by submitting Imbalance Only ("IO") orders immediately following the dissemination of the first imbalance message. The strategy would then trade in the Continuous Book on the opposite side of the market from the IO order between 15:50:00 and 16:00:00 with the goal of executing a share quantity equal to the share quantity of the on-close order. The Firm designed the strategy so it would not trade at prices beyond the first disseminated far indicative clearing price, but the strategy failed to consider updates to the near and far indicative clearing prices¹ during the 10-minute closing cross period.

From February 23, 2011 through March 13, 2011, Firm personnel coded and tested the trading strategy before the first live production test on March 14, 2011, when a maximum size threshold of one share was set, then 10 shares. Subsequently, the trading strategy threshold was gradually increased with additional live production testing from March 15 through March 16, 2011, using a maximum threshold of 100 shares, which was increased to 50,000 shares on March 24, 2011. The Firm, however, performed the testing for efficacy purposes but did not also assess the trading strategy for potential market impact or manipulation. The Firm also did not maintain a written record of the approval of the trading strategy.

Also during the review period, the Firm failed to adequately record changes made to the trading strategy's parameters. The firm also did not monitor how the trading strategy could affect market prices until several months after the trading strategy began trading. Moreover, although orders placed by the trading strategy were subject to the Firm's market surveillance system and the Firm's surveillance system generated several alerts related to the trading strategy's activity, the Firm failed to adequately document and archive reviews, escalations and results of supervisory reviews that followed those alerts.

¹ The near indicative clearing price, disseminated with each imbalance message, is the price at which orders in the Nasdaq opening/closing book and Nasdaq continuous book would clear against each other. The far indicative clearing price, also disseminated with each imbalance message, is the price at which orders in the Nasdaq opening/closing book would clear against each other.

VIOLATIONS

During the review period, as detailed above, the Firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to the applicable securities laws and regulations, and Nasdaq rules, concerning the development and implementation of an electronic trading strategy created and employed to participate in the Nasdaq Closing Cross. Specifically, the Firm failed to establish and maintain a supervisory system, including written supervisory procedures, that (a) provided a reasonable review and testing process; (b) ensured that material changes to a trading strategy and supervisory reviews of trading activity by a trading strategy were adequately recorded and maintained; (c) adequately monitored a trading strategy's potential effect on market prices; and (d) identified the person responsible for supervision of this activity and the process by which that person would supervise and document their supervisory review. The conduct described in this paragraph constitutes a violation of Nasdaq Rules 2110 and 3010.

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

A censure, a \$100,000 fine, and an undertaking to revise the Firm's WSPs with respect to the areas described in Section I.A under Facts and Violative Conduct. Within 60 business days of acceptance of this AWC by the National Adjudicatory Council ("NAC"), a registered principal of the Firm shall submit to the **COMPLIANCE ASSISTANT, LEGAL SECTION, DEPARTMENT OF MARKET REGULATION, 9509 KEY WEST AVENUE, ROCKVILLE, MD 20850**, a signed, dated letter, or an e-mail from a work-related account of the registered principal to MarketRegulationComp@finra.org, providing the following information: (1) a reference to this matter; (2) a representation that the Firm has revised its WSPs to address the deficiencies described above in Section I.A. under Facts and Violative Conduct; and (3) the date the revised procedures were implemented.

The Firm agrees to pay the monetary sanction(s) in accordance with its executed Election of Payment Form.

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 FINRA staff.

II.

WAIVER OF PROCEDURAL RIGHTS

The Firm specifically and voluntarily waives the following rights granted under Nasdaq's Code of Procedure:

- A. To have a Formal Complaint issued specifying the allegations against the Firm;
- B. To be notified of the Formal Complaint and have the opportunity to answer the allegations in writing;
- C. To defend against the allegations in a disciplinary hearing before a hearing panel, to have a written record of the hearing made and to have a written decision issued; and
- D. To appeal any such decision to the Nasdaq Review Council 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, the Nasdaq Review Council, or any member of the Nasdaq Review Council, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including acceptance or rejection of this AWC.

The Firm further specifically and voluntarily waives any right to claim that a person violated the ex parte prohibitions of Rule 9143 or the separation of functions prohibitions of Rule 9144, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including its acceptance or rejection.

III.

OTHER MATTERS

The Firm understands that:

- A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by FINRA's Department of Market Regulation and the Nasdaq Review Council, the Review Subcommittee, or the Office of Disciplinary Affairs ("ODA"), pursuant to Nasdaq Rule 9216;
- B. If this AWC 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 AWC will become part of the Firm's permanent disciplinary record and may be considered in any future actions brought by Nasdaq or any other regulator against the Firm;
 2. Nasdaq may release this AWC or make a public announcement concerning this agreement and the subject matter thereof in accordance with Nasdaq Rule 8310 and IM-8310-3; 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 AWC or create the impression that the AWC is without factual basis. The Firm may not take any position in any proceeding brought by or on behalf of Nasdaq, or to which Nasdaq is a party, that is inconsistent with any part of this AWC. Nothing in this provision affects the Firm's right to take legal or factual positions in litigation or other legal proceedings in which Nasdaq is not a party.
- D. The Firm may attach a Corrective Action Statement to this AWC 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 AWC in this Statement. This Statement does not constitute factual or legal findings by Nasdaq, nor does it reflect the views of Nasdaq 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 AWC and has been given a full opportunity to ask questions about it; that it has agreed to the AWC's provisions voluntarily; and that no offer, threat, inducement, or promise of any kind, other than the terms set forth herein and the prospect of avoiding the issuance of a Complaint, has been made to induce the firm to submit it.

3/22/2017
Date

Morgan Stanley & Co. LLC, Respondent

By: [Signature]

Name: S. Anthony Taggart

Title: Executive Director

Reviewed by:

Counsel for Respondent
Christian T. Kemnitz, Esq.
Katten Muchin Rosenman LLP
525 W. Monroe Street
Chicago, IL 60661-3693
(312) 902-5379

Accepted by Nasdaq:

4/5/17
Date

[Signature]
Robert A. Marchman
Executive Vice President, Legal
Department of Market Regulation

Signed on behalf of Nasdaq, by delegated
authority from the Director of ODA

ELECTION OF PAYMENT FORM

The Firm intends to pay the fine proposed in the attached Letter of Acceptance, Waiver and Consent by the following method (check one):

- A Firm check or bank check for the full amount;
- Wire transfer;
- The installment payment plan.²
 - Monthly
 - Quarterly

3/22/2017
Date

Respectfully submitted,

Morgan Stanley & Co. LLC, Respondent

By: [Signature]
Name: S. Anthony Taggart
Title: Executive Director

Billing and Payment Contact

Please enter the billing contact information below. Nasdaq MarketWatch will contact you with billing options and payment instructions. ***Please DO NOT submit payment until Nasdaq has sent you an invoice.***

Billing Contact Name: Theresa Pilosi
Billing Contact Address: 1221 Avenue of the Americas, 34th Floor,
New York, NY 10020
Billing Contact Email: theresa.pilosi@ms.com
Billing Contact Phone Number: (212) 762-7275

² The installment payment plan is only available for a fine of \$50,000 or more. Certain requirements apply.