UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 99336 / January 12, 2024

ADMINISTRATIVE PROCEEDING
File No. 3-21825

In the Matter of **Morgan Stanley & Co. LLC** **Respondent.**	**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**

I.

The Securities and Exchange Commission ("Commission") deems it appropriate and in the public interest that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Sections 15(b) and 21C of the Securities Exchange Act of 1934 ("Exchange Act") against Morgan Stanley & Co. LLC ("Morgan Stanley" or "Respondent").

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the "Offer"), which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, Respondent admits the Commission's jurisdiction over it and the subject matter of these proceedings, and consents to the entry of this 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 ("Order"), as set forth below.

III.

On the basis of this Order and Respondent's Offer, the Commission finds[1] that:

Summary

1. This matter involves fraudulent conduct perpetrated by two employees on Morgan Stanley's Equity Syndicate Desk in the Americas ("Syndicate Desk") involving large blocks of stock that the investment banking firm purchased from investors (the "selling shareholders"). From at least June 2018 through August 2021 (the "Relevant Period"), the former head of the Syndicate Desk ("Managing Director A") and a former senior member of the Syndicate Desk ("Executive Director A") 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 the selling shareholders. Those buy-side investors used such information to "pre-position"—or take a short position in—the stock that was the subject of the upcoming block trade. Such disclosures by these employees of the Syndicate Desk violated the selling shareholders' expectations of—and, in certain instances, express requests for—confidentiality conveyed to the Syndicate Desk, representations of confidentiality made by the Syndicate Desk, and/or Morgan Stanley's policies regarding the treatment of confidential information.

2. Morgan Stanley also failed to enforce written policies and procedures reasonably designed, taking into consideration the nature of its business, to prevent the misuse of material non-public information. Specifically, Morgan Stanley failed to enforce information barriers to prevent material non-public information involving certain block trades from being discussed by the Syndicate Desk, which sits on the private side of Morgan Stanley, with the Institutional Equity Division, which was on the public side of the firm.

Respondent

3. Morgan Stanley & Co. LLC is a Delaware company with its principal office in New York, New York and is registered with the Commission as a broker-dealer. It is a wholly owned subsidiary of Morgan Stanley, a global financial services firm incorporated in Delaware and headquartered in New York, New York. Respondent has entered into a written non-prosecution agreement with the U.S. Attorney's Office for the Southern District of New York ("USAO for SDNY") that acknowledges responsibility for conduct relating to the findings in the Order. Specifically, Respondent acknowledged facts sufficient to constitute violations of Section 10(b) of the Exchange Act and Rule 10b-5(b) thereunder.

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[1] The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

Background on Block Trades

4. A "block trade," as the term is used in this Order, involves the sale of a large quantity of shares of an issuer's stock, privately arranged and executed outside of the public markets. The shares are typically offered by a selling shareholder, which is usually an institutional investor such as a private equity or venture capital firm, whose identity and holdings typically have been reported in the issuer's SEC filings or through required SEC filings by the selling shareholder.

5. A block trade can be executed in a variety of ways, but generally involves an investment banking firm, such as Morgan Stanley, committing its own capital to purchase the stock directly from the selling shareholder and then offering the stock to buy-side investors (*e.g.*, large institutional investors, including hedge funds and mutual funds) at a markup to the firm's purchase price.

6. The investment banking firm's profit on a block trade is the spread between the discounted price at which it purchases the stock and the price at which it resells the stock. If the firm cannot find sufficient demand for all shares purchased in the block transaction, the firm is left holding a residual position, which exposes it to the risk of stock price movements until it can fully sell the position. In this regard, a block trade is considered a "risk trade," meaning that the firm bears the risk of the stock's potential decline in value between the time it acquires and then resells the stock.

7. In a block trade, the interests of the selling shareholder and the investment banking firm are typically not aligned. Selling shareholders want to sell the block of stock at the highest possible price, while investment banking firms want to buy the block at the lowest possible price.

8. A block trade is often preceded by a catalyst, such as the expiration of a lockup period or a corporate earnings announcement. For example, private equity firms that make pre-initial public offering ("IPO") investments in companies are typically not permitted to sell the acquired shares for some period after the IPO. The timing of such catalyst events is known to the market because lockups are disclosed in the IPO prospectus and tracked, and earnings announcements occur on a set schedule that are announced to the public. Market participants may anticipate that pre-IPO investors will sell some or all of their shares following lockup expiries, or earnings announcements, though the exact timing and size of such stock sales are not publicly known. Further, not all block trades are preceded by known catalyst events.

9. Block trades can be structured as registered transactions or unregistered transactions.

10. In a registered block transaction, the selling shareholder's shares are sold pursuant to an issuer's effective registration statement. The sale is pursuant to an underwriting agreement with the investment banking firm for the sale of the shares, and the firm offers the shares to the public pursuant to a prospectus supplement to the registration statement. Occasionally, issuers conduct primary offerings pursuant to registered block transactions as well.

11. In an unregistered block transaction, shares are sold pursuant to an exemption from the registration requirements of the Securities Act of 1933 ("Securities Act"). If a selling shareholder is deemed an affiliate of an issuer, they may sell an unregistered block of stock to investment banking firms pursuant to the safe harbor in Rule 144 of the Securities Act. That safe harbor includes volume limitations and manner of sale requirements, including a prohibition on pre-solicitation or pre-marketing of the block trade by the investment banking firm.

12. Most blocks are sold in one of two ways: (a) through an auction process involving multiple investment banking firms, or (b) through a negotiated process involving one purchasing firm, possibly with the selling shareholder inviting bids from other investment banking firms as a way to evaluate the purchasing firm's offer price.

13. In an auction, the selling shareholder or an agent acting on its behalf typically calls a select group of investment banking firms during the trading day (without advanced notice) to determine whether each firm is interested and available to bid on a block of stock that afternoon, after the market close. During the call, selling shareholders or their agents typically identify to the firms the identity of the selling shareholder, the stock expected to be auctioned, and the size of the block. In most instances, selling shareholders and their agents request that the investment banking firms they solicit to bid on the block keep information about the block sale confidential. If news of an upcoming block leaks, there is a risk that a market participant could short the stock that is the subject of the block trade before the trade occurs or stop buying the stock in anticipation of additional supply. Such activity could negatively impact the stock's price ahead of the relevant block. Confidentiality is also important to selling shareholders because they often continue to hold a significant position in the issuer's stock after a block trade.

14. Selling shareholders or their agents then typically send a bid-wanted-in-competition ("BWIC") email to the investment banking firms that had expressed an interest on the initial outreach calls. BWICs are typically sent to firms two to three hours before the market close. They reiterate the information provided on the outreach call (the seller's identity, the stock, and size of the block), request bids by 4:05 pm ET that day, and set forth the confidential auction process. BWICs typically pre-condition a firm's participation in the auction process on the firm agreeing to keep information about the potential block trade confidential. Selling shareholders or their agents require the select group of auction participants to keep such information confidential because if the market becomes aware of an imminent block trade, as stated above, the price of the stock might decline, and the seller might receive a worse price from the auction.

15. Bids in an auction process are typically expressed as a discount to the last sale price of the stock prior to the market close at 4:00 pm ET. The investment banking firm with the best bid—the smallest discount to that last sale price—typically wins the block. If multiple firms submit competitive bids, the selling shareholder may opt to have them work together in purchasing the block, with each firm purchasing a portion of the block.

16. In a negotiated transaction, the selling shareholder (or its agent) typically works with one investment banking firm to arrange for the block transaction, including finding the optimal day and time to sell the block of stock. Selling shareholders who engage in negotiated

transactions, for the same reasons as selling shareholders who engage in an auction process, typically expect their discussions with the firm to be kept confidential.

Morgan Stanley's Policies and Procedures
Concerning the Non-Disclosure of Block Trade Information

17. During the Relevant Period, Morgan Stanley had policies and procedures concerning the handling of confidential information about potential and impending block trades.

18. Since at least March 2017, Morgan Stanley's Global Confidential and Material Non-Public Information Policy (the "Confidential and MNPI Policy") defined "confidential information" ("Confidential Information") to be "information that [e]mployees create, develop, receive, use or learn in the course of their employment with Morgan Stanley," including "information that: 1) is not generally known by the public about the Firm, its Employees, its clients or other parties with whom the Firm has a relationship (e.g., counterparties); and 2) is expected to be treated confidentially." According to the Confidential and MNPI Policy, Confidential Information "must be of sufficient sensitivity that loss or unauthorized disclosure or access could result in legal, business or reputational harm to Morgan Stanley or its clients."

19. The Confidential and MNPI Policy provided non-exclusive lists of the types of information that may qualify as Confidential Information, including (a) the identity of Morgan Stanley's counterparties, (b) the existence or terms of an agreement with a counterparty, (c) any information disclosed to Morgan Stanley by a client or counterparty unless it is clear that the information is public or an official source confirms the information is no longer confidential, (d) securities trades, (e) information disseminated over a squawk box, and (f) information provided to Morgan Stanley under the terms of a signed confidentiality agreement. The Confidential and MNPI Policy provided examples of inappropriate communications of Confidential Information, including where an employee "is negotiating a trade with a client who is a potential buyer, and provides details about the seller to the client."

20. When communicating Confidential Information, the Confidential and MNPI Policy required Morgan Stanley employees to "ensure the recipient(s) is permitted to receive confidential information, and is made aware of the confidential nature of the information before communicating it." For example, prior to internally distributing a list of Morgan Stanley counterparties, employees were required to check to ensure that all internal recipients needed, and were permitted to receive, the Confidential Information. The Confidential and MNPI Policy prohibited employees from disclosing "confidential information to any person outside the Firm (including family members) who [was] not subject to an obligation to keep the information confidential." Limited exceptions to the policy were available but required approval by Morgan Stanley's Legal and Compliance Division.

21. The Confidential and MNPI Policy also made clear that certain Confidential Information could be material non-public information and provided a non-exclusive list of information and conduct that may constitute MNPI. MNPI included "all non-public information that may have a significant impact on the price of a security, derivative or other financial

instrument, or that a reasonable investor would likely consider important in making an investment decision." The non-exclusive list of examples of events that might constitute MNPI included undisclosed changes in major shareholders and securities issuances, circumstances which are often present in a block trade.

22. The Confidential and MNPI Policy required any employee in receipt of MNPI to log their receipt with Morgan Stanley's Control Group within the firm's Global Compliance Department. The Confidential and MNPI Policy also prohibited employees on the private side of Morgan Stanley, such as those on the Syndicate Desk, from sharing MNPI with employees on the public-facing side of the firm, such as traders in the Institutional Equity Division, unless the public-side employees were formally wall-crossed.

23. The Confidential and MNPI Policy also stated that "[e]mployees must never, under any circumstances, trade, encourage others to trade, or recommend securities while in possession of MNPI related to those instruments."

24. The Confidential and MNPI Policy was incorporated into Morgan Stanley's Code of Conduct—which was posted to Morgan Stanley's website and could be accessed by the public. Every employee of the firm was required to certify annually his or her compliance with the Code of Conduct. Managing Director A and Executive Director A also annually received training on the Confidential and MNPI Policy during the Relevant Period.

25. The Code of Conduct itself expressed Morgan Stanley's commitment to "promoting free, fair and competitive markets," and cautioned that the firm would "not tolerate any attempt by an employee or representative of Morgan Stanley to manipulate the markets or the prices of securities or to impede fair competition." Further, the Code of Conduct expressly prohibited "market abuse" and "manipulative trading activities," including "using information about a pending transaction to take a favorable position for clients, Morgan Stanley, or yourself," and "trading, or encouraging others to trade, in securities or related financial instruments while in possession of [MNPI] relating to those instruments."

26. A separate Morgan Stanley policy entitled "Guidelines and Procedures for Pre-Marketing Contact with Potential Investors" (the "Pre-Marketing Policy"), which was in place since at least 2018, sets forth guidelines for employees in the Equity Capital Markets group, such as Managing Director A and Executive Director A, for engaging in permissible pre-marketing to potential investors.

27. The Pre-Marketing Policy defined pre-marketing as "communications with a specified group of potential investors regarding a specific issuer and/or the potential offering . . . of its securities prior to public launch of the transaction, for the purpose of gauging the interest of potential investors in a possible transaction, which may include the terms relating to it such as its potential size or pricing." The restrictions of the Pre-Marketing Policy applied to discussions from the time Morgan Stanley had contact with the selling shareholder or its agent about the potential transaction.

28. The Pre-Marketing Policy stated that the selling shareholder's "consent should generally be received prior to undertaking any pre-marketing activities." Further, "[i]f any of the information to be disclosed to prospective investors . . . may constitute MNPI," then the prospective investor must "be asked whether it wishes to be wall-crossed, and warned that the information it will receive is confidential, non-public and may be material." "If all of the information to be disclosed to prospective investors . . . does not constitute [MNPI], then prospective investors should nevertheless be informed, if applicable, that the information is considered non-public and instructed to keep it confidential." The Pre-Marketing Policy specified that "if there is any doubt about the materiality of the information, [the employee] should treat it as MNPI" and therefore "follow the wall-crossing process" or "discuss with Legal and Compliance."

29. Separately, the Pre-Marketing Policy specified that "[t]he level and type of information to be disclosed should be limited to that which is reasonably necessary to adequately gauge investor interest in the potential transaction and should be proportionate to the interests of the client issuer/seller."

30. Further, where shares in a prospective block were to be sold pursuant to an SEC-registered offering, the Pre-Marketing Policy, on which Managing Director A and Executive Director A also received training during the Relevant Period, prohibited even seller-approved pre-marketing activity until such time as the issuer filed the registration statement with the SEC. In such transactions, the issuer frequently filed its registration statement or supplemental prospectus with the SEC after the selling shareholder had agreed to a price with the investment banking firm.

The Morgan Stanley Employees' Conduct Involving Auction Block Trades

31. Morgan Stanley's Syndicate Desk, within the firm's Equity Capital Markets group, participated in auctions involving the sale of blocks of stock. In an auction process, the selling shareholder or its agent typically called the Syndicate Desk in the afternoon to provide information about a contemplated auction (including the identity of the seller, the stock being sold, and size of the contemplated block) and to determine whether Morgan Stanley was interested in and available to bid on the block that day. If Morgan Stanley expressed interest, the seller or its agent typically would send Morgan Stanley a BWIC.

32. BWICs that Morgan Stanley received typically included an explicit statement requiring confidential treatment of information that the selling shareholder or its agent provided concerning the block, including the existence of a potential transaction, in order to participate in the bidding process. For example, in connection with a potential block sale on March 28, 2019, a selling shareholder's agent called Morgan Stanley's Syndicate Desk and then emailed a BWIC to the firm, including to Managing Director A, which stated, in pertinent part:

> As a reminder, our conversations, the documentation and the matters related thereto . . . are strictly confidential. You should note that this invitation has been sent to a very limited number of potential purchasers. Prior to the purchaser being selected, please do not engage in any discussion with potential investors or purchasers, even

hypothetical ones, including discussions in which several names are mentioned in order to solicit general interest.

33. During the Relevant Period, the information that Morgan Stanley received from selling shareholders or their agents regarding active and prospective block auctions—whether by phone call or BWIC—was also governed by the firm's Confidential and MNPI Policy and its Pre-Marketing Policy.

34. Following receipt of that initial call and BWIC, Syndicate Desk employees formulated a bid for the stock, a process that was also governed by the firm's Confidential and MNPI Policy and its Pre-Marketing Policy.

35. When Morgan Stanley submitted a bid that was accepted, it would assume the risk of the trade, and immediately marketed the block of stock to buy-side investors at a markup to the price at which it purchased the stock. Morgan Stanley often was able to resell all of the shares it acquired in the block the same day. If Morgan Stanley resold all of the acquired shares, the firm's profit was the difference between the discounted price at which it purchased the stock and the price at which it resold the stock. If Morgan Stanley was unable to resell all of the shares before the markets opened the next business day, it had to manage the residual position until all shares were resold, which subjected Morgan Stanley to price risk.

36. During the Relevant Period, Managing Director A and Executive Director A disclosed non-public, potentially market-moving information received from selling shareholders or their agents about block trades to certain buy-side clients of Morgan Stanley while the auction process was ongoing. Managing Director A and Executive Director A knew, or were reckless in not knowing, that such disclosures violated the terms of the auctions and the BWIC emails the Syndicate Desk received in which selling shareholders or their agents expressly requested confidentiality, representations of confidentiality made by the Syndicate Desk, and/or Morgan Stanley's policies on the treatment of Confidential Information.

37. Managing Director A and Executive Director A provided this information to those buy-side investors with the understanding that certain buy-side investors frequently would take large short positions in the stock in anticipation, and prior to the execution, of the block trade, and that, if Morgan Stanley won the auction, the buy-side investor would request and receive allocations from the block trade to cover those short positions. Those pre-positioning activities benefitted Morgan Stanley as it ensured that there would be a large buyer for at least a portion of the block trade, thereby lowering Morgan Stanley's risk on the transaction, and giving the firm comfort to offer a tighter and more competitive bid.

38. Most selling shareholders and their agents would not have included Morgan Stanley in the auction process involving BWICs if they knew or suspected Managing Director A and Executive Director A were leaking information to buy-side investors during the auction.

Example of Auction Block Trade

March 19, 2019 INVH Block Trade

39. As of December 31, 2018, a large investment management company ("Selling Shareholder A"), through its subsidiaries, held 219,945,349 shares of Invitation Homes Inc. common stock ("INVH").

40. At 1:35 pm ET on March 19, 2019, a Senior Managing Director at Selling Shareholder A sent Managing Director A and other Morgan Stanley employees a BWIC email. The email began "[Managing Director A] – As we just discussed, we appreciate your protecting the confidentiality of this discussion from the marketplace, as well as your consideration and thoughts." It continued by asking for Morgan Stanley to submit bids on potential INVH block trades of two different sizes: 36 million and 43 million shares.

41. Also at 1:35 pm ET on March 19, 2019, Managing Director A called a portfolio manager ("Portfolio Manager A") in the London, England office of a Hong Kong-based hedge fund ("Hedge Fund A") for less than one minute. Portfolio Manager A called Managing Director A back at 1:35 pm ET, and that call lasted for approximately four minutes. During that call, they discussed the impending INVH block trade.

42. Between 2:10 pm ET and 4:03 pm ET on March 19, 2019, Portfolio Manager A synthetically sold short 950,000 shares or approximately $22.2 million of INVH using equity swaps.[2] INVH closed at $23.30, down 1.3%, from its price at 2:10 pm ET.

43. Managing Director A and Portfolio Manager A exchanged five more calls between 2:13 pm ET and 3:53 pm ET on March 19, 2019.

44. At 4:18 pm ET, Morgan Stanley submitted a bid of $23.22 for 43 million shares, which was accepted by Selling Shareholder A.

45. Hedge Fund A was allocated 2.5 million INVH shares from Morgan Stanley, approximately 5.8% of the block trade, at a total cost of $58.25 million. Morgan Stanley generated approximately $3.4 million in profits from this block trade.

<u>The Morgan Stanley Employees' Conduct Involving Negotiated Block Trades</u>

46. Morgan Stanley's Syndicate Desk also executed negotiated block trades during the Relevant Period. These transactions arose in a variety of ways, often with Morgan Stanley approaching a known holder of shares to pitch a negotiated transaction, and in some cases suggesting to the potential selling shareholder that a negotiated transaction would minimize the risk of information leakage into the markets and thus result in better prices for the potential seller.

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[2] At 11:14 am ET on March 19, 2019, Hedge Fund A synthetically sold short 15,000 INVH shares using an equity swap for $351,000.

47. In many instances, Morgan Stanley employees affirmatively represented that the firm would keep information about the potential negotiated block trade confidential until after Morgan Stanley purchased the block from the selling shareholder. In some instances, selling shareholders required Morgan Stanley to execute a formal written confidentiality agreement.

48. Without regard to whether Morgan Stanley had executed a confidentiality agreement or made affirmative representations about confidentiality, selling shareholders could have had a reasonable expectation that the information they provided to Morgan Stanley during a negotiated block transaction would be kept confidential as their negotiations were with the private side of Morgan Stanley. Moreover, selling shareholders' expectations in this regard were consistent with Morgan Stanley's public-facing Code of Conduct. Further, in some cases, Morgan Stanley's own employees told potential selling shareholders that information leaks could have a negative price impact and that a reason to do a negotiated transaction as opposed to an auction is to avoid such leaks. Specifically, if news about a potential block sale leaks, market participants might sell the stock in anticipation of the block or wait until the block came to market to purchase the stock, which could lead to a potential stock price decline.

49. During the Relevant Period, while Morgan Stanley was in private negotiation with selling shareholders, Managing Director A and Executive Director A disclosed to certain buy-side investors non-public, potentially market-moving information received from those selling shareholders relating to block trades, which information the selling shareholders expected to remain confidential.

50. Managing Director A provided such information to certain buy-side clients of Morgan Stanley throughout the negotiation process, not just on the day when the parties agreed to price the block. Managing Director A knew, or was reckless in not knowing, that such disclosures violated the selling shareholders' expectations of confidentiality conveyed to him, representations of confidentiality made by Managing Director A, and/or Morgan Stanley's policies on the treatment of Confidential Information.

51. Managing Director A provided this information to those buy-side investors with the understanding that they frequently would take large short positions in the stock in anticipation, and prior to the execution, of the block trade, and that, if Morgan Stanley purchased the block, the buy-side investors would request and receive allocations from the block trade to cover those short positions. Those pre-positioning activities benefitted Morgan Stanley as it ensured that there would be a large buyer for at least a portion of the negotiated block trade, thereby lowering

Morgan Stanley's risk on the transaction, and giving the firm comfort to offer a tighter and more competitive price during negotiations.

52. Many selling shareholders and their agents would not have negotiated with Morgan Stanley to consummate a block trade if they knew or suspected that Managing Director A or Executive Director A were leaking information to buy-side investors during the negotiations.

Example of Negotiated Block Trade

May 25, 2021 SBLK Block Trade

53. As of February 26, 2021, advisory clients of a global investment management firm ("Selling Shareholder B") were the largest holders of Star Bulk Carriers Corp. ("Star Bulk") common stock ("SBLK"). Collectively, those advisory clients held 39,006,017 SBLK shares, or 39.3% of the total outstanding shares.

54. On April 27, 2021, an executive at Selling Shareholder B ("Executive at Selling Shareholder B") called an employee in Morgan Stanley's Investment Banking Division ("IBD") to communicate that Selling Shareholder B wanted to sell a block of SBLK using Morgan Stanley. The IBD employee then emailed a group of Morgan Stanley employees to inform them of the potential block trade, stating that the Executive at Selling Shareholder B was "VERY focused on confidentiality." That email was forwarded to Managing Director A on April 29, 2021.

55. During the period leading up to the block trade, the Executive at Selling Shareholder B had several conversations with Morgan Stanley employees, including Managing Director A, in which he stated that he did not want the market to know of Selling Shareholder B's intent to sell SBLK until the risk transferred to Morgan Stanley.

56. On May 14, 2021, an employee in Morgan Stanley's Equity Capital Markets group ("ECM") emailed Managing Director A and another employee of the Syndicate Desk indicating that a discussion with Selling Shareholder B regarding the price of a SBLK block may be scheduled for later that afternoon. The ECM employee stated that she thought that Morgan Stanley needed "to start socializing levels" on pricing. Managing Director A replied that the discount on a SBLK block of the contemplated size was probably 12 to 14 percent.

57. Later on May 14, 2021, the ECM employee emailed Managing Director A and other Morgan Stanley employees following a discussion with the Executive at Selling Shareholder B noting that she had informed him that Morgan Stanley was contemplating offering to buy Selling Shareholder B's block of stock with a low double digit (i.e., greater than 10%) discount and the Executive at Selling Shareholder B "basically laughed and said 'well that won't work.'" The ECM employee told the Executive at Selling Shareholder B that the Morgan Stanley team would continue to refine its thinking over the weekend and speak on Monday or Tuesday.

58. On May 17, 2021, Managing Director A informed the founder and managing member ("Managing Member A") of an SEC-registered Investment Adviser ("Adviser A") of a potential block trade involving 10 million shares of SBLK. Also on May 17, 2021, Managing

Member A began selling SBLK short on behalf of Adviser A. These short sales represented Adviser A's first ever trades in SBLK. Between May 17, 2021 and May 24, 2021, Managing Member A sold short 1,349,203 SBLK shares on behalf of Adviser A.

59. Managing Director A and Managing Member A also discussed a potential SBLK block trade on May 19, May 20, and May 24.

60. On May 18, 2021, the ECM employee asked Managing Director A if he had an updated view on pricing that Morgan Stanley wanted to share with Selling Shareholder B. She also proposed sending Selling Shareholder B an email highlighting a significant price decline during a recent auction for a different block of stock and the purported benefits of executing block trades as negotiated transactions with Morgan Stanley instead of conducting an auction. Managing Director A responded by asking her if she had "two secs to talk live."

61. Around the same time on May 18, 2021, another ECM employee emailed Managing Director A noting that the "tightest" or highest that Morgan Stanley should re-offer SBLK is down approximately 9% from the stock's closing price, which would imply that Morgan Stanley would offer to buy the shares from Selling Shareholder B at a 10% to 11% discount. Managing Director A responded that he thought they could "be tighter."

62. Later on May 18, 2021, the IBD employee emailed several Morgan Stanley employees, including Managing Director A, warning that Morgan Stanley needed to improve its proposed offer or Selling Shareholder B would sell the block via an auction process.

63. During a call with the Executive at Selling Shareholder B on May 19, 2021, Morgan Stanley improved its offer to a discount of 8%.

64. On May 20, 2021, the first trading day after Star Bulk announced its corporate earnings for first quarter of 2021, shares of SBLK declined $1.54 (6.83%) to close at $21. In light of the price decline, Morgan Stanley suggested waiting until Monday, May 24, 2021 to execute the SBLK block trade.

65. After the market close on May 24, 2021, Morgan Stanley purchased 10,630,000 SBLK shares from Selling Shareholder B at a price of $21.05, a 7.4% discount to SBLK's last sale price of $22.72 on May 24, 2021. Morgan Stanley reoffered the stock to investors at $21.40, including Adviser A. Managing Member A covered Adviser A's short position by purchasing 2 million shares from Morgan Stanley, approximately 19% of the block trade. Morgan Stanley generated approximately $3.7 million in profits from the SBLK block trade.

66. As a result of the conduct described above, Morgan Stanley willfully violated Section 10(b) of the Exchange Act and Rule 10b-5(b) thereunder which prohibits any person, directly or indirectly, by the use of any means or instrumentality of interstate commerce, or of the mails or of any facility of any national securities exchange, in connection with the purchase or sale of any security to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they

were made, not misleading. Morgan Stanley generated $138,297,046 in profits across 28 transactions involving such conduct.

Morgan Stanley's Failure to Enforce Information Barriers Regarding Block Trade Information

67. During the Relevant Period, Morgan Stanley's Confidential and MNPI Policy prohibited Morgan Stanley employees from sharing Confidential Information with employees other than those who "ha[d] a legitimate business reason to know the information and who ha[d] no responsibilities or duties that could give rise to a conflict of interest." With respect to employees in possession of MNPI, Morgan Stanley had a framework of "policies and procedures known as [i]nformation [b]arriers to prevent the misuse of MNPI and to avoid both actual and apparent conflicts of interest." The information barrier framework was designed to separate private side employees—such as those who worked on the Syndicate Desk—"who routinely receive[d] MNPI in the course of their employment," from public side employees, "who routinely work[ed] in the public securities markets," trading on behalf of Morgan Stanley and its customers. The information barriers were meant to allow public side employees to "continue to engage in transactions even when [p]rivate [s]ide [e]mployees possess[ed] MNPI about the related issuer or security."

68. Morgan Stanley's information barrier framework during the Relevant Period provided that "[g]enerally, an issuer [would be] added to [Morgan Stanley's] Watch List when the Firm [was], or may [have] reasonably [been] expected to be, in possession of [MNPI] regarding that issuer." All issuers that were on the firm's Watch List "for material transactions or other situations where the Firm [was] in receipt of [MNPI]" were subject to "Watch List surveillance . . . to monitor trading activity in Firm, employee and employee-related accounts [to] ensure that there [was] no misuse of the information."

69. Many of Morgan Stanley's block trades during the Relevant Period were executed by the firm's Syndicate Desk within ECM, a division of Morgan Stanley that assisted clients in raising capital on the private side of the firm. Morgan Stanley's Institutional Equity Division ("IED"), which is on the public side of the firm, primarily conducted sales and trading in equity products. Because IED employees were constantly interacting with market participants regarding equity products, they had a strong understanding of the markets for those products. In this regard, the Syndicate Desk consulted with IED employees in connection with potential block trades to better understand the market for the stock that was the subject of a block trade so that they could appropriately price the risk.

70. When consulting with IED employees in order to inform their pricing decisions, ECM employees generally were prohibited under Morgan Stanley's policies from sharing Confidential Information about block trades. Moreover, for block trades that may have reasonably been expected to involve MNPI, ECM was required to bring employees from the IED "over the wall" before asking them to help price the risk of the block trade. Once an IED employee was wall-crossed, that IED "employee's day-to-day activities [would] be constrained." Specifically, an over-the-wall IED employee would "be prohibited from . . . [t]rading/dealing in the relevant

security (or related securities) on behalf of the Firm or a client," "[e]ncouraging others to deal in the security (or related securities)," or "[d]isclosing the information to anyone else."

71. ECM followed this wall-crossing procedure when it consulted with IED on block trades that were to be registered, but typically did not wall-cross IED employees to help price the risk for unregistered block trades. As a result, the restrictions for wall-crossed employees described directly above did not apply to these IED employees' activities when consulted by ECM on unregistered block trades. Additionally, when ECM consulted IED concerning unregistered block trades, the securities discussed were not required to be added to the firm's Watch List (though they often were) and, therefore, may not have been subject to additional monitoring for the misuse of MNPI described above.

72. During the Relevant Period, IED sold short securities while the Syndicate Desk was in discussions with selling shareholders regarding potential block trades involving the same securities, including registered offerings. Due to ECM's failure to adhere to the Confidential Information and MNPI Policy or follow wall-crossing procedures, IED's trading in those securities was not sufficiently surveilled or scrutinized during the Relevant Period. Moreover, in certain instances where Morgan Stanley purchased the block trade, IED was allocated shares to cover its short positions.

73. Although certain instances of IED's trading were the subject of compliance alerts, the firm did not properly review those alerts or conduct further investigation of the alerts when warranted. For example, an alert was generated from a short position established by the cash desk within IED before an unregistered block trade on Thursday, February 18, 2021. That short position was established on February 16 and 17, 2021, while the Syndicate Desk was in negotiations with selling shareholders of the block. Morgan Stanley's review of the alert, conducted almost a year after the block trade in January 2022, inaccurately concluded that because the negotiated block trade executed between the close on February 17, 2021 and the open on February 18, 2021, "trading during market hours while in possession of MNPI" was "therefore not possible."

74. Although Morgan Stanley had established information barriers between the private side and public side of the firm, Morgan Stanley failed to enforce those barriers to protect Confidential Information and non-public, potentially market-moving information involving impending block trades from being provided by the private Syndicate Desk to the public-facing IED.

75. As a result of the conduct described above, Morgan Stanley willfully violated Section 15(g) of the Exchange Act as the firm failed to enforce written policies and procedures reasonably designed, taking into consideration the nature of its business, to prevent the misuse of such material non-public information.

Disgorgement and Civil Penalties

76. The disgorgement and prejudgment interest ordered in paragraph C is consistent with equitable principles and does not exceed Respondent's net profits from its violations and will be distributed to harmed investors, if feasible. The Commission will hold funds paid pursuant to paragraph C in an account at the United States Treasury pending a decision whether the Commission in its discretion will seek to distribute funds. If a distribution is determined feasible and the Commission makes a distribution, upon approval of the distribution final accounting by the Commission, any amounts remaining that are infeasible to return to investors, and any amounts returned to the Commission in the future that are infeasible to return to investors, may be transferred to the general fund of the U.S. Treasury, subject to Section 21F(g)(3) of the Exchange Act.

Remedial Efforts

In determining to accept the Offer, the Commission considered remedial acts promptly undertaken by Respondent, including the termination of Managing Director A and Executive Director A, and cooperation afforded the Commission staff. Morgan Stanley has engaged in a review and remediation of its internal controls and procedures relating to the firm's handling of block trades.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondent's Offer.

Accordingly, pursuant to Sections 15(b) and 21C of the Exchange Act, it is hereby ORDERED that:

A. Respondent cease and desist from committing or causing any violations and any future violations of Section 10(b) of the Exchange Act and Rule 10b-5(b) thereunder and Section 15(g) of the Exchange Act.

B. Respondent is censured.

C. Respondent shall pay disgorgement of $138,297,046, plus prejudgment interest of $28,057,775, for a total of $166,354,821. Respondent's obligation to pay $166,354,821 shall be offset in an amount equal to the value of any assets and funds actually paid pursuant to a forfeiture or restitution order, for the benefit of victims, in the parallel non-prosecution agreement with the USAO for SDNY within 14 days of entry of this Order. The disgorgement and prejudgment interest ordered here is consistent with equitable principles and does not exceed Morgan Stanley's net profits from its violations. The Commission will hold funds paid pursuant to this paragraph in an account at the United States Treasury pending a decision whether the Commission, in its discretion, will seek to distribute funds or, subject to Exchange Act Section 21F(g)(3), transfer them to the general fund of the United States Treasury. Payment shall be made within fourteen

(14) days of the entry of this Order, or the orders in the USAO for SDNY case. If timely payment is not made, additional interest shall accrue pursuant to Commission Rule 600.

D. Respondents shall, within fourteen (14) days of the entry of this Order, pay a civil money penalty in the amount of $83 million to the Securities and Exchange Commission. The Commission may distribute civil penalties collected in this proceeding if, in its discretion, the Commission orders the establishment of a Fair Fund pursuant to 15 U.S.C. § 7246, Section 308(a) of the Sarbanes-Oxley Act of 2002. The Commission will hold funds paid pursuant to this paragraph in an account at the United States Treasury pending a decision whether the Commission, in its discretion, will seek to distribute funds or, subject to Exchange Act Section 21F(g)(3), transfer them to the general fund of the United States Treasury. If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. § 3717.

Payment must be made in one of the following ways:

(1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;

(2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at http://www.sec.gov/about/offices/ofm.htm; or

(3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Morgan Stanley & Co. LLC as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Joseph G. Sansone, Chief, Market Abuse Unit, Division of Enforcement, Securities and Exchange Commission, 100 Pearl St., Suite 20-100, New York, NY 10004-2616.

E. Regardless of whether the Commission in its discretion orders the creation of a Fair Fund for the penalties ordered in this proceeding, amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondent agrees that in any Related Investor Action, it shall not argue that it is entitled to, nor shall it benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in

any Related Investor Action grants such a Penalty Offset, Respondent agrees that it shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Respondent by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

By the Commission.

Vanessa A. Countryman
Secretary