

# Morgan Stanley

PRIVATE WEALTH MANAGEMENT

# Private Wealth Management General Terms

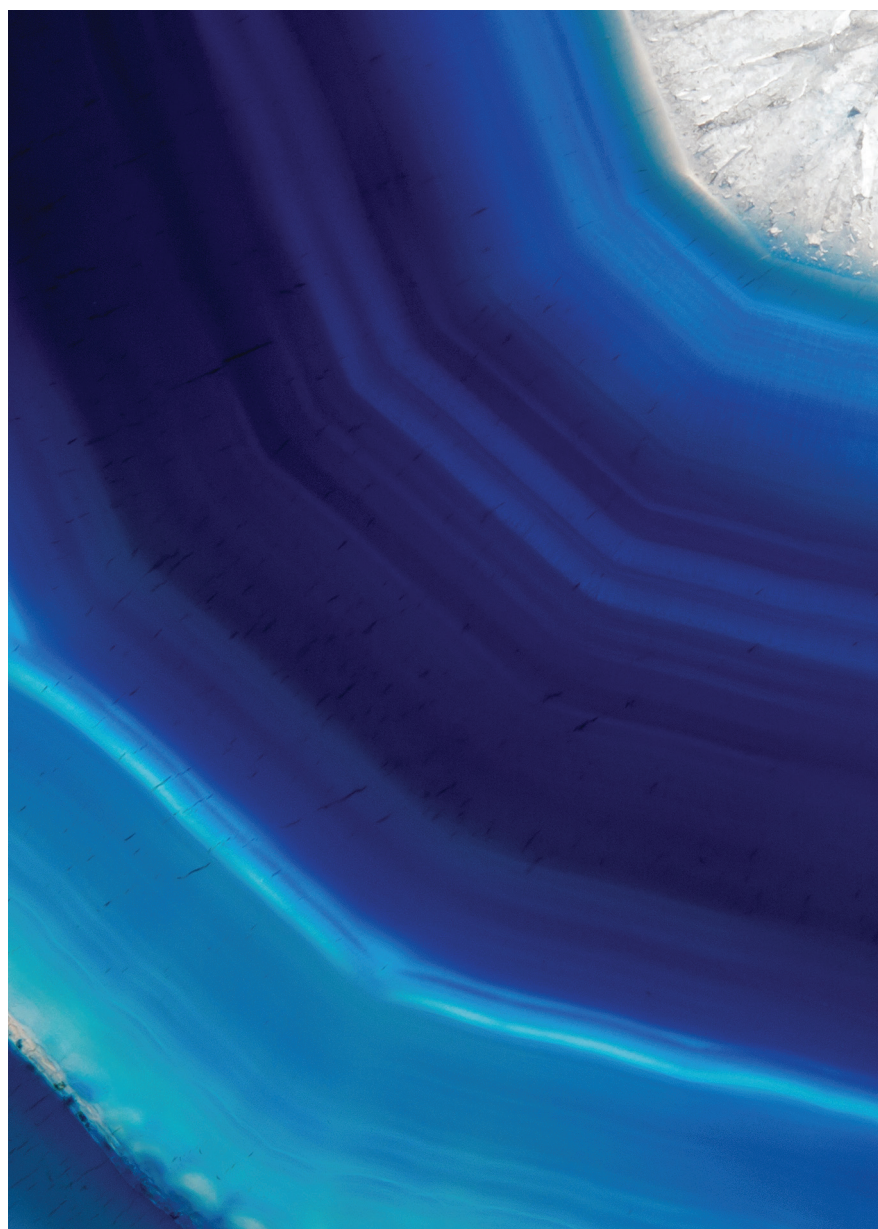
## GENERAL TERMS

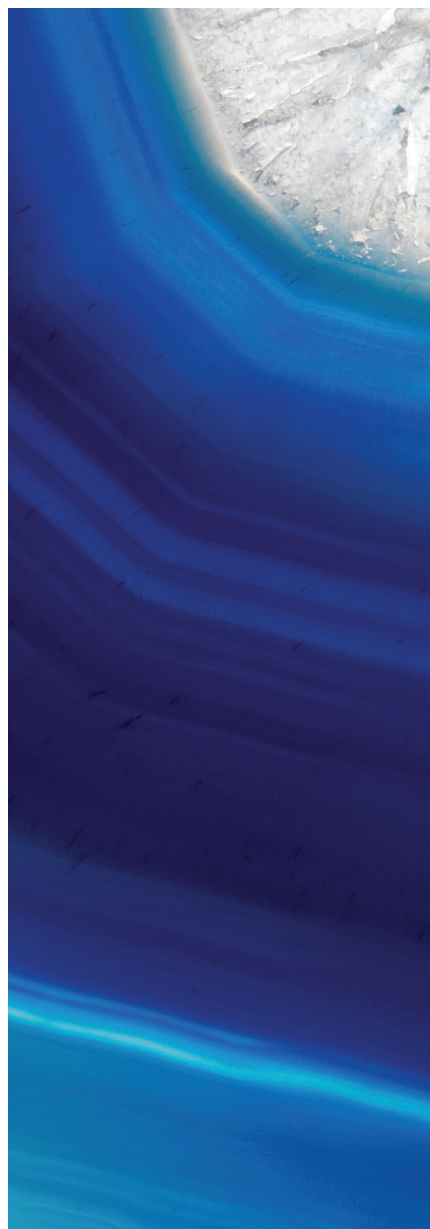
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# Introduction

Morgan Stanley Private Wealth Management ("PWM") is a business division of Morgan Stanley Wealth Management Australia Pty Ltd (ACN 009 145 555) ("MSWM"), a company regulated by the Australian Securities and Investments Commission ("ASIC") in Australia, (AFSL number 240813) and whose principal place of business is Level 26, Chifley Tower, 2 Chifley Square, Sydney NSW 2000, Australia.

Morgan Stanley & Co International plc ("MSIP") is authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and the Prudential Regulation Authority. MSIP is registered as a company in England and Wales: NO.02068222 and is a Foreign Financial Services Provider relying on ASIC Corporations (Repeal and Transitional) Instrument 2016/396. MSIP is registered as a foreign company in Australia with Australian Registered Body Number 613 032 705. Liability of members is limited.

The Services provided to you under the Customer Agreement may be provided by MSWM, which is regulated in Australia, or MSIP, which is regulated in the UK.

In this Customer Agreement, "Morgan Stanley" means MSWM and MSIP.

## Customer Agreement

The Customer Agreement sets out the Services which MSWM and/or MSIP, as applicable, will provide to you and the terms under which such Services are provided. The Customer Agreement comprises:

- General Dealing Terms;
- Account Application Form;
- Signature Page;
- Credit Support Documents; and
- Other ancillary documents.

## Definitions

Defined terms used in this introduction have the meaning given in Clause 41 (*Definitions and Interpretation*) of the General Terms.

## General Dealing Terms

The General Terms set out the terms governing Services including general investment and dealing services and the provision of research, advice, valuation, custody, clearing and settlement.

Additional terms relating to Services, referred to as a "Module", will apply to certain Services (for example, FX Transactions, Exchange Traded Derivatives Transactions, provision of a Credit Facility or discretionary investment management services).

## Specific documents to note

You should review all parts of the Customer Agreement (including the Modules and the Supplements) to ensure that it covers what Morgan Stanley and you have agreed and all the Services Morgan Stanley has agreed to provide to you.

## MODULES

By signing a Module, you confirm that such Module will apply to your Account and signify your acceptance of the terms of that Module.

If you do not enter into a Module Morgan Stanley will be unable to provide the additional Services described in the relevant Module. You should also be aware that the provision of Services under a Module that you have entered into may be conditional upon your having signed another relevant Module. For example, in order to enter into an FX Transaction under the Foreign Exchange Transactions Module, you must also have entered into the Credit Module and applied for, and been granted, a Credit Facility thereunder and (if applicable to your entity type) the Derivatives Variation Margin Module.

If, after opening your Account, you wish to be provided with additional Services, you must separately sign the relevant Module(s) for such additional Services in order for Morgan Stanley to provide you with such additional Services and for the relevant Module(s) to apply to your Account.

## ACCOUNT APPLICATION FORM

The Account Application Form must be completed by you and contains matters such as your investment objectives and risk tolerance, investment experience and other information required to operate your Account. The Account Application Form is included in your Customer Agreement documentation package.

## SIGNATURE PAGE

The Signature Page of the Customer Agreement is where you signify your agreement to the Customer Agreement (including any Module which you have separately signed). By signing the Signature Page, you agree with all parts of the Customer Agreement including any Module which you have separately signed. By signing the Signature Page, you are also consenting to MSWM supplementing information you provide in the Account Application Form with any other information MSWM may already hold (including without limitation your personal information, source of wealth and other financial information) where such information is required to operate your Account and where you have previously consented to such disclosure.



## CERTIFICATE OF AUTHORITY TO DEAL SUPPLEMENT

If you are a corporate entity, partnership, trust or charitable foundation Morgan Stanley will require a list of signatories who can give Instructions on your behalf.

## FCA CATEGORISATION - NOTICE OF TREATMENT SUPPLEMENT

In respect of Services provided by MSIP, MSIP is required to categorise your customer status for UK regulatory purposes. Terms defined expressly or by reference in the FCA Rules shall have the same meanings wherever used in this section of the introduction.

MSIP will categorise you as either a Retail Client or Professional Client. This categorisation affects your protections as a customer of MSIP. Your categorisation depends on a number of factors such as the type of customer you are (for example whether you are an individual or a company) and the nature of the assets you hold. Your categorisation will be as described below - you should ensure you read this section carefully. You are responsible for updating MSWM about any change in circumstances that could affect your categorisation.

**(I) RETAIL CLIENT:** Unless you are notified to the contrary in writing, MSIP will categorise you as a Retail Client. Where you are a legal entity, categorisation as a Retail Client will apply to all branches (if any) of your organisation, where relevant. As a Retail Client, you may elect for re-categorisation as described in paragraph (II) below.

**(II) ELECTIVE PROFESSIONAL CLIENT:** If you are a Retail Client and you meet certain criteria relating, amongst other things, to your expertise and experience, you will be eligible for re-categorisation as a Professional Client. You are required to notify MSWM in writing should you wish to opt-up to an Elective Professional Client in respect of certain Financial Instruments. If MSIP determines that you are eligible, Morgan Stanley will send you a Notice of Treatment Supplement as an Elective Professional Client. If you agree to be re-categorised as a Professional Client, you should sign and return the Notice of Treatment Supplement as an Elective Professional Client.

**You must note that, in choosing to be treated as an Elective Professional Client, you will lose some of the protections and compensation rights associated with being a Retail Client.**

**(III) PER SE PROFESSIONAL CLIENT:** If MSIP determines that you qualify as a Professional Client, Morgan Stanley will send you a Notice of Treatment Supplement as a Per Se Professional Client. As a Professional Client, you have a right to request in writing that you wish to be treated as a Retail Client.

## Security Interests

MSIP, for itself and as agent and trustee for MSWM, shall have the benefit of security interests granted by you over your Accounts in accordance with the terms of the Customer Agreement.

## Credit Facilities

MSIP may, in its discretion, be prepared to make credit available to you on an uncommitted basis, upon the terms set out in the Credit Module, subject to (a) receipt of a completed Credit Application Form and supporting documents, and (b) credit approval.

## Anti-Money Laundering Requirements

As you will be aware, governments in the various jurisdictions where Morgan Stanley operates have enacted legislation designed to prevent the use of the financial system for the purposes of shielding proceeds of crime, including terrorism. Morgan Stanley is required to identify, verify and record information for individuals and entities prior to the opening of an Account. This means Morgan Stanley will ask for your name, address, date of birth (as applicable) to verify your identity and also whether you, a family member, close associate or any other person with ownership rights or authority over your Account is or has been a senior political figure. Morgan Stanley may, in its discretion, also ask for additional documentation or information about you, including information as to your source of funds. Morgan Stanley may also request information and identification details about another individual in association with your Account as part of this process.

If all required documentation or information is not provided Morgan Stanley cannot proceed to open your Account or establish a relationship with you. This information can take some time to obtain so it is best to begin this process as soon as possible.

## Tax Documentation

Please ensure you have provided all relevant tax documentation to Morgan Stanley as MSIP may be required to deduct withholding and other taxes.

## Risk Disclosure

Please review the risk disclosure statements contained in the Customer Agreement carefully, including those set out in Appendix I (*Risk Disclosure Statements*) to the General Terms, the Modules and the Supplements.

## Wholesale Client Categorisation

Where you are incorporated or resident in Australia, become registered or resident in Australia or otherwise receive the Services whilst in Australia, you will be required to be a Wholesale Client and you will be deemed to have read, reviewed and understood all relevant disclosures, and made all relevant acknowledgements and agreements, in each case, as set out in Clause 1 (*Notice to Australian Clients*) of Appendix II (*Client Specific Disclosures*). You are responsible for promptly updating MSWM about any change in circumstances that cause you to no longer be categorised as a Wholesale Client.

## Questions

If you have any questions or something is not clear or is incorrect, then you should contact your MSWM financial adviser. However, Morgan Stanley is not able to offer you legal, regulatory or taxation advice and therefore, if you need such advice before being able to sign the Customer Agreement and open the Account, you should seek independent professional advice. Morgan Stanley's internal legal, regulatory and taxation advisers are happy to deal with your own professional advisers in discussing any matter concerning the Customer Agreement.

### Signing The Customer Agreement

After you have read and understood the Customer Agreement, please sign and return the Signature Page to your MSWM financial adviser together with any other required documents - for example, the Account Application Form, the relevant Modules that are to apply to your Account, the applicable Supplements and any other ancillary documents.

Once MSWM has confirmed that the returned Signature Page and other documents are in order, and each of MSWM and MSIP have entered into the Customer Agreement, MSWM will notify you in writing that the Customer Agreement has become effective and that your Account(s) has(ve) been opened.

### Contact

For any queries or complaints relating to MSWM or MSIP, you may contact Morgan Stanley by:

- speaking to your MSWM financial adviser;
- calling MSWM on 13 13 70 (within Australia) if you do not have a MSWM financial adviser;
- visiting [www.morganstanley.com.au](http://www.morganstanley.com.au); and/or
- visiting, calling, writing or emailing MSWM at the addresses shown on the back cover.

### Information About You

You must notify Morgan Stanley in writing from time to time of any material changes to the information on Morgan Stanley's records, including any information provided by you in the Account Application Form or otherwise in connection with the account opening process. Information held on Morgan Stanley's records that should be updated for any material changes including without limitation your contact details, investment objectives, risk tolerance, investment experience and financial situation, as well as factual information such as your domicile or place of residence. If you are a company, you must inform MSWM of, among other things, any changes in directors, shareholders, beneficial owners and corporate structure.

Without prejudice to the foregoing, MSWM may contact you (either by mail, facsimile or e-mail if you have provided Morgan Stanley with an e-mail address in your Account Application Form) periodically to confirm the information on Morgan Stanley's records. If you do not inform MSWM of any material changes to the information on Morgan Stanley's records within 30 calendar days from the date of its correspondence to you, Morgan Stanley will be entitled to treat the information and records as accurate and will continue to rely on such information for various purposes including assessment of the suitability of the types of products or services to be provided to you insofar as permitted under Applicable Regulations.

# General Terms

## 1. SERVICES

**1.1 INTRODUCTION.** The Services will be provided to you by MSWM or MSIP, as specified throughout this Customer Agreement. MSWM may act as your agent vis-à-vis MSIP for the purposes of the Conduct of Business Sourcebook by taking your orders or instructions and transmitting them to MSIP.

This Customer Agreement is entered into between you and each of MSWM and MSIP and therefore constitutes a separate Customer Agreement between you and each of MSWM and MSIP. Defined terms used in this Customer Agreement have the meaning given in Clause 41 (*Definitions and Interpretation*).

All Transactions carried out or to be carried out under the Customer Agreement are subject to all Applicable Regulations. If there is a conflict between the Customer Agreement and Applicable Regulations, the latter shall prevail. Morgan Stanley shall be entitled to take or omit to take any action, as it considers appropriate, in order to ensure compliance with the Customer Agreement and the Applicable Regulations (including but not limited to the disclosure of information as contemplated in Clause 20 (*Confidentiality and Disclosure of Information*)), and all such actions or omissions so taken shall be binding upon you.

**1.2 SERVICES COVERED IN THE CUSTOMER AGREEMENT.** The Services may include dealing services in any kind of Investment, together with related research, advice, valuation, custody, clearing and settlement, margin lending. Terms applying to specific Services are set out in the General Terms as well as the Modules. The Customer Agreement may be amended to incorporate Module(s) setting out additional terms applying to certain additional Services (see Clause 33.3 (*Amendment by Morgan Stanley*) below).

**1.3 MSWM.** MSWM is regulated by ASIC in Australia and holds an AFSL (No. 240813) authorising it to provide financial services to Australian wholesale and retail customers. MSWM financial advisers based in Australia are 'representatives' (within the definition of s910A of the Corporations Act) of MSWM.

MSWM may agree to provide you with financial advice as further detailed in Clause 4.7 (*Provision of Advice by MSWM*) below. MSWM may provide discretionary investment services if mandated by you under the Discretionary Trading Module. MSWM may also provide you with research, or arrange for an Associated Firm to provide you with research.

MSWM will assist MSIP in the provision of Services to you by facilitating the opening of your Account with MSIP by obtaining, verifying and retaining your account information and documentation. Where you have provided your information to MSWM previously, MSWM may act as your agent by applying that information where required to open your Account and where you have previously consented to such disclosure. MSWM will be responsible for taking your orders and instructions and transmitting them to MSIP. MSWM shall be responsible for investigating and responding to any questions or complaints you have about Accounts,

Transaction confirmations, Account Statements or any other matter related to the Accounts, including notifying MSIP with respect to matters involving Services performed by MSIP.

MSWM does not itself operate accounts for customers, and your Accounts will be held with MSIP. MSWM will be responsible to you for the execution of Transactions it executes as executing broker. MSIP will be responsible to you for clearing and settlement of Transactions, for custody of your assets and for provision of a Credit Facility, as applicable.

The Services to be provided by MSIP are intrinsically linked to those provided by MSWM. As such, it is not possible to provide you with the MSIP Services alone. However, this does not increase the risk to you.

Unless otherwise provided in any Modules or otherwise agreed in writing, all notices and other communications by you to Morgan Stanley, including changes in your investment objectives, investment restrictions and permitted Investments, must be sent to MSWM.

You will notify your MSWM financial adviser in writing from time to time of any material changes to the information provided by you to Morgan Stanley in connection with the Customer Agreement, including, but not limited to, your investment objectives and financial situation.

**1.4 MSIP.** MSIP (FCA registration number 165935) is authorised by the PRA and regulated by both the FCA and the PRA. MSIP's registered office is at 25 Cabot Square, Canary Wharf, London E14 4AD. The address of the PRA is 20 Moorgate London, EC2R 6DA. The address of the FCA is 25 The North Colonnade, Canary Wharf, London E14 5HS. The main business of MSIP is investment business.

MSIP may execute, clear and settle Transactions in securities and certain other financial instruments in accordance with orders and instructions transmitted to it by MSWM. MSIP may offer custody of assets, holding of cash or Investments, and the provision of research. MSIP may agree to extend a Credit Facility under the Credit Facility Module.

**1.5 MORGAN STANLEY AND ASSOCIATED FIRMS.** Other Services may be provided by the Associated Firms from time to time in accordance with such additional agreement in writing entered into between an Associated Firm and you.

Associated Firms may not be regulated in the UK (although they may be regulated by overseas regulators and details of their regulatory status are available on request).

**1.6 INVESTOR PROTECTION SCHEMES.** MSIP is covered by the UK Financial Services Compensation Scheme established under FSMA. In respect of Services provided directly to you by MSIP, you may be entitled to compensation from the scheme if MSIP cannot meet its obligations. This depends on the type of client, business and the circumstances of the claim. The maximum compensation available is GBP85,000 in aggregate of eligible claims. Further details in respect of the UK Financial Services Compensation Scheme are available upon request.

Neither MSWM nor MSIP is an Australian 'authorised deposit-taking institution', nor will your Account(s) be a 'protected account', for the purposes of the Banking Act 1959 (Cth) of Australia.

Your Account(s) will therefore not be covered by the Australian Government's Financial Claims Scheme.

## 2. YOUR REPRESENTATIONS AND OBLIGATIONS

### 2.1 DISCLOSURE OBLIGATIONS

**2.1.1** You acknowledge and agree that your trading in, and holding of, securities may result in you being subject to disclosure and reporting obligations in various jurisdictions pursuant to the respective Applicable Regulations. The violation of such rules and regulations may result in severe penalties or other punitive measures for you. Morgan Stanley is not required to inform you if any such disclosure or reporting obligations have been triggered. Morgan Stanley may be required to disclose information about your trading activities and shareholdings to regulatory authorities in connection with such disclosure rules and you authorise Morgan Stanley to do so in accordance with Clause 20 (*Confidentiality and Disclosure of Information*).

**2.1.2** If required by Morgan Stanley in connection with reporting obligations, you agree to obtain and maintain a LEI.

**2.2 CONFIRMATIONS.** You agree and confirm to Morgan Stanley that the confirmations set out below are true and will be true:

- (i) as of the date you sign the Customer Agreement,
- (ii) as of the date you accept any further Modules, Supplements, other amendments to the Customer Agreement or additional documents,
- (iii) as of the date Morgan Stanley enters into a Transaction with or for you, and
- (iv) in the case of Clauses 2.14 (*EMIR NFC Representation*) and 2.18 (*Non-ERISA Representation*) and, if applicable, 2.23 (*EMIR Margin Representation*) only, at all times any Transaction remains outstanding. If any of the confirmations set out below are or become untrue at any time, or you are aware that with the passing of time, giving of notice or expiry of any applicable grace period any of the confirmations set out below may become untrue, you must notify Morgan Stanley immediately.

**2.3 CAPACITY.** You have duly executed and delivered, and you have all necessary power, authority and Approvals to enter into and perform your obligations under, the Customer Agreement and each Transaction. If you are an individual, you have not been determined to be incompetent, of unsound mind or otherwise incapable by reason of mental or physical disorder to manage and administer your property and affairs or to perform your obligations under or in connection with the Customer Agreement. You have not been subject to any criminal Proceedings in which an offence of dishonesty is alleged against you. If you are a company or an entity:

- (a) you are duly organised and validly existing under the laws of the jurisdiction of your organisation or incorporation and, if relevant under such laws, in good standing;
- (b) you are not a public sector body, local public authority or municipality and, if you are, you have elected and are capable of being treated as an Elective Professional Client in accordance with Applicable Regulations, you will notify MSWM immediately of any changes to your status resulting in you being no longer capable of being treated as such.

**2.4 AUTHORITY.** You have obtained all necessary Approvals (including, where you are a natural person, spousal consent



where relevant) to execute the Customer Agreement and any other documentation relating to the Customer Agreement, to deliver the Customer Agreement and any other documents relating to the Customer Agreement required to be delivered, to give instructions to MSWM and place orders under the Customer Agreement, and to perform your obligations under the Customer Agreement and each Transaction. You and any persons designated by you have, and will at all times have, due authorisation to act in all relevant respects in relation to the Customer Agreement and each Transaction.

**2.5 LICENCES AND CONSENTS AND LOCAL REGULATIONS.** In opening and operating your Account with MSIP you have obtained and made, and will maintain in effect, all necessary Approvals and you are in compliance with and will continue to comply with all their terms and with all Applicable Regulations. You will provide MSWM promptly with a copy of all documents referred to in this Clause 2.5 and all other information if there is any material change to the documents or information. No other action by or in respect of, or filing with, any governmental body, agency or official is required in connection with the execution, delivery and performance referred to in Clause 2.3 (*Capacity*).

**2.6 SENIOR FOREIGN (NON-US) POLITICAL FIGURES.** Neither you nor any other persons who have any ownership interest in the Account(s) or have authority over the Account(s) are currently, or have been in the past, a Senior Foreign (Non-US) Political Figure, or any Immediate Family Member or Close Associate of a Senior Foreign (Non-US) Political Figure within the meaning of the US Department of Treasury's Guidance on Enhanced Scrutiny for Transactions that May Involve the Proceeds of Foreign Official Corruption and as referenced in the USA PATRIOT Act of 2001.

**2.7 ANTI-MONEY LAUNDERING AND SANCTIONS.** By signing the Customer Agreement, and each time you enter into a Transaction, you are deemed to have confirmed, to the best of your knowledge and belief having made due enquiry, that you and any other persons who have any ownership interest in the Account(s) or have authority over the Account(s):

**2.7.1** conduct your/their activities in compliance with Money Laundering Laws, and that no Proceedings by or before any court or government, governmental department or other body, governmental, semi-governmental or judicial person or a person (whether autonomous or not) who is charged with the administration of a law, authority or body or any arbitrator involving you/them with respect to the Money Laundering Laws is pending or threatened;

**2.7.2** are not the subject of any Sanctions, or located, organised or resident in a country or territory that is the subject of Sanctions; and

**2.7.3** will not directly or indirectly use the Account, or lend, contribute or otherwise make available proceeds from Transactions, to any subsidiary, joint venture partner or other person or entity, to fund or facilitate any activities of any person or entity or in any country or territory that is subject to any Sanctions, or in any other manner that will result in a violation of Sanctions by you, them or Morgan Stanley (as the case may be).

You agree and acknowledge that:

(a) to ensure Morgan Stanley's continued compliance with the AML/CTF Act and Rules, MSWM will need to collect information and verification documentation from you from time to time;

(b) you will provide MSWM with whatever additional information is required in order for it to meet Morgan Stanley's obligations under the AML/CTF Act and Rules;

(c) MSWM may need to collect information and verification documentation from you about another individual in association with your Account, and where you provide such information, you must ensure you have that individual's express consent and be able to produce evidence of the express consent on request; and

(d) Morgan Stanley will not be liable for any loss incurred by you as a result of any action of Morgan Stanley which either delays your Account being opened, or results in your Account opening or Instructions being declined, where these actions are necessary for Morgan Stanley to comply with the AML/CTF Act and Rules.

**2.8 BANKRUPTCY.** You are not bankrupt, insolvent or otherwise experiencing financial difficulties. You have not recently suffered a material decrease in your net asset value.

**2.9 VALIDITY.** The Customer Agreement and each Transaction are your valid and legally binding obligations, enforceable against you in accordance with their terms except for the effect of bankruptcy, insolvency, reorganisation, moratorium and other similar laws relating to or affecting creditors' rights generally and to general equitable principles.

**2.10 VIOLATIONS.** Your execution, delivery and performance of the Customer Agreement and each Transaction does not and will not contravene, conflict with or constitute a default under, any provision of your constitutional documents or any law, regulation, rule, decree, order, judgment or charge, contract, trust deed or other instrument binding on you or any of your assets (including, without limitation, any currency controls or limits or restrictions on obtaining credit facilities, etc., of any jurisdiction applicable to you). You are the sole unencumbered owner of the assets you may transfer to or hold with MSIP (including where such assets are margin). An application for ancillary relief, or any other application or claim which has an analogous effect, has not been made, relating to any of your property or entitlement under any of your contracts, in any matrimonial Proceedings relating to you.

**2.11 NON-RELIANCE, ASSESSMENT AND UNDERSTANDING.** You are capable of assessing the merits of and understanding (on your own behalf or through independent professional advice), and understand and accept, the terms, conditions and risks of each Transaction. You are also capable of assuming, and assume, the risks of each Transaction. You acknowledge that Morgan Stanley does not provide legal, regulatory, tax or accounting advice in respect of the Customer Agreement or any Transaction, and that you have been advised by Morgan Stanley to obtain (and will obtain) where appropriate independent legal, regulatory, tax or accounting advice in respect of the Customer Agreement and any Transaction. You fully understand the terms of the Customer Agreement and each Transaction (whether or not English is your first language) and consider each Transaction as being suitable for you in the context of your financial and other circumstances. Save where MSWM is effecting a Transaction for you on a discretionary basis pursuant to a separate Discretionary Trading Module, Morgan Stanley is not acting as a fiduciary for you in respect of any Transaction.

**2.12 OTHER STATEMENTS BY MORGAN STANLEY.** In entering into the Customer Agreement and each Transaction, Morgan Stanley



has not made, and you are not relying upon, any statements, representations, promises or undertakings whatsoever except as set out in the Customer Agreement. You have been recommended by Morgan Stanley to seek independent legal counsel, a financial advisor and a tax advisor. You have not been subjected to duress or other undue influence in executing and delivering the Customer Agreement or in entering into any Transaction. You understand the Customer Agreement and the nature of the Transactions to be entered into under the Customer Agreement.

**2.13 REGISTRATION AS A FOREIGN COMPANY IN ANY JURISDICTION.** If you are a company, you either are:

**2.13.1** not registered as a foreign company in any jurisdiction in which you are incorporated, established, or undertake or carry on business in, including registration as a foreign company in Australia under Part 5B.2 of the Corporations Act, registration of one or more “establishments” (as that term is defined in Part 1 of The Overseas Companies Regulations 2009 of the UK) with the Registrar of Companies of England and Wales, registration as a non-Hong Kong company under Part XI of the Companies Ordinance (Cap. 32) of Hong Kong, or registration as a foreign company under Part XI of the Companies Act (Cap. 50) of Singapore; or

**2.13.2** registered as a foreign company as described in Clause 2.13.1, or if you apply to have yourself so registered after the date of the Customer Agreement, you:

(i) have given or will promptly (and in any case within 30 days after the date of such registration) give Morgan Stanley sufficient details to enable an accurate search against you to be undertaken at the relevant company registries; and:

(ii) will do all things necessary to comply with any Applicable Regulations imposed in that jurisdiction with respect to the Customer Agreement and the Security.

**2.14 EMIR NFC REPRESENTATION**

**2.14.1** You are either:

- (i) a NFC;
- (ii) an entity established outside the UK that, to the best of your knowledge and belief, having given due and proper consideration to your status, would constitute a NFC if it were established in the UK; or
- (iii) an individual who would not fall within (i) or (ii).

**2.14.2** In respect of each Transaction, you would not be subject to a clearing obligation pursuant to EMIR or, if you are an entity under Clause 2.14.1(ii) above, you would not be subject to a clearing obligation pursuant to EMIR if you were established in the UK. For the purposes of this Clause 2.14.2, it is assumed that the Transaction is of a type that has been declared to be subject to the clearing obligation in accordance with Article 5 of EMIR and is subject to the clearing obligation in accordance with Article 4 of EMIR (whether or not in fact this is the case).

**2.14.3** From and including the time at which you have effectively delivered to Morgan Stanley a Clearing Status Notice, but excluding the time at which you have effectively delivered to the other party a Non-Clearing Status Notice, Clause 2.14.2 above is disapplied and you will not be required to give the representation set out in that sub-clause.

**2.14.4** If you have previously delivered to Morgan Stanley a Clearing Status Notice, and you later deliver to Morgan Stanley a Non-Clearing Status Notice, then from and including the time at which you have effectively delivered to Morgan Stanley such Non-Clearing Status Notice, Clause 2.14.2 above is applied and you will be required to give the representation set out in that sub-clause.

**2.15 COMPLIANCE WITH FOREIGN EXCHANGE REGULATIONS.** To the extent you or any of your assets are subject to any foreign exchange regulations in any jurisdiction, all funds deposited or to be paid into your Account have been at all times legitimately acquired and held by you offshore or otherwise in accordance with the relevant foreign exchange regulations (including, without limitation, any requirements relating to repatriation or outward remittances).

**2.16 RISK DISCLOSURES.** You have read and understand the risk disclosures to the General Terms, the relevant Modules and the relevant Supplements set out in Appendix I (*Risk Disclosure Statements*).

**2.17 CHANGE OF DOMICILE OR RESIDENCE.** You agree to notify Morgan Stanley if you change your domicile or place of ordinary residence.

**2.18 NON-ERISA REPRESENTATION.** You are not:

(i) an employee benefit plan (hereinafter an “ERISA Plan”), as defined in Section 3(3) of the US Employee Retirement Income Security Act of 1974, as amended (“ERISA”), subject to Title I of ERISA or a plan subject to Section 4975 of the US Internal Revenue Code of 1986, as amended, or subject to any other statute, regulation, procedure or restriction that is materially similar to Section 406 of ERISA or Section 4975 of the Code (together with ERISA Plans, “Plans”),

(ii) a person any of the assets of whom constitute assets of a Plan, or

(iii) in connection with any Transaction, a person acting on behalf of a Plan, or using the assets of a Plan.

**2.19 TAX.** You understand that your tax affairs are your own responsibility. You confirm that:

(a) to the best of your knowledge, you have not committed or been convicted of offences under any applicable tax law or regulation of a jurisdiction to which you are subject, Hong Kong, Singapore, UK and Australia;

(b) to the best of your knowledge, you are not under any ongoing criminal investigation by any tax authority or law enforcement agency for alleged criminal or fraudulent conduct related to tax evasion; and

(c) any assets deposited or to be deposited in your Account(s) do not represent the proceeds of any crime (including tax crimes). You agree to comply with any applicable tax and tax reporting or declaration obligations with respect to your business relations, assets and/or income in your Account(s).

**2.20 MIFID REPRESENTATIONS.** You represent to Morgan Stanley on each date and at each time on which you enter into a Transaction (which representation will be deemed to be repeated by you at all times while such Transaction remains outstanding) that you are not placing an order with Morgan Stanley through an entity that is an Authorised MiFID Investment Firm.

**2.21 NON-FINANCIAL END USER REPRESENTATION.** If you are not an individual, you represent and confirm on each date and at each time on which MSIP enters into an uncleared swap (with ‘swap’ being defined in Section 1a(47) of the U.S. Commodity Exchange Act (“CEA”), and the regulations adopted thereunder; with ‘uncleared swap’ meaning a swap that has not been cleared by a “derivatives clearing organization” as defined in Section 1a(5) of the CEA and the regulations adopted thereunder), where MSWM has legally bound you in respect of such uncleared swap as your agent vis-à-vis MSIP, that you are a “non-financial end user” (as defined in the United States Commodity Futures Trading Commission’s “Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants” (81 Fed. Reg. 636 (Jan. 6, 2016))).

**2.22 US QFC MANDATORY CONTRACTUAL REQUIREMENTS.** Certain of Morgan Stanley Associated Firms are subject to the requirements of the QFC Stay Rules. These rules require that all Covered Agreements between any member of the Morgan Stanley Associated Firms and you expressly recognise the stay-and-transfer powers of the FDIC under the FDI Act and OLA and limit the exercise of certain default rights and transfer restrictions related to a BHCA Affiliate of a Covered Entity entering into insolvency or resolution proceedings. You agree and confirm to Morgan Stanley and the Associated Firms each of the following at all times, in respect of each Covered Agreement:

**2.22.1 RECOGNITION OF US SPECIAL RESOLUTION REGIMES.** In the event that Covered Entity becomes subject to a proceeding under the FDI Act or OLA (together, the “US Special Resolution Regimes”), the transfer of the Covered Agreement, and any interest and obligation in or under, and any property securing, the Covered Agreement from a Covered Entity will be effective to the same extent as the transfer would be effective under the US Special Resolution Regime if the Covered Agreement, and any interest and obligation in or under, and any property securing, the Covered Agreement, were governed by the laws of the US or a State of the US. In the event a Covered Entity or a BHCA Affiliate of such Covered Entity becomes subject to a proceeding under a US Special Resolution Regime, Default Rights with respect to the Covered Agreement that may be exercised against the Covered Entity are permitted to be exercised to no greater extent than such Default Rights could be exercised under such US Special Resolution Regime if the Covered Agreement were governed by the laws of the US or a State of the US.

**2.22.2 LIMITATIONS ON EXERCISE OF CERTAIN DEFAULT RIGHTS**

(a) Limitation on exercise of certain Default Rights related to a BHCA Affiliate’s entry into Insolvency Proceedings: Notwithstanding anything to the contrary in the Covered Agreement or any other agreement, you expressly acknowledge and agree that:

(i) you shall not be permitted to exercise any Default Right with respect to such Covered Agreement that is related, directly or indirectly, to a BHCA Affiliate of the Direct Party becoming subject to an Insolvency Proceeding, except to the extent that the exercise of such Default Right would be permitted under the creditor protection provisions of 12 CFR 252.84, 12 CFR 47.5, or 12 CFR 382.4, as applicable; and

(ii) nothing in a Covered Agreement shall prohibit the transfer of any Covered Affiliate Credit Enhancement, any interest or obligation in or under such Covered Affiliate Credit Transferee upon or following a BHCA Affiliate of the Direct Party becoming subject to an Insolvency Proceeding, unless the transfer would result in you being the beneficiary of such Covered Affiliate Credit Enhancement in violation of any law applicable to you.

(b) Burden of proof: After a BHCA Affiliate of a Covered Entity has become subject to an Insolvency Proceeding, you who seek to exercise any Default Right with respect to a Covered Agreement with such Covered Entity shall have the burden of proof, by clear and convincing evidence, that the exercise of such Default Right is permitted under the Covered Agreement, as stated hereby.

(c) Relationship between Clauses 2.22.1 and 2.22.2: The requirements of Clause 2.22.1 apply notwithstanding Clause 2.22.2(a).

**2.22.3 REPRESENTATIONS AND UNDERTAKINGS**

(a) You represent that the provisions under this Clause 2.22 (other than any provisions affecting when rights in respect of a Credit Enhancement or Third Party Credit Enhancement may be exercised) will not, in and of itself, adversely affect the enforceability, effectiveness or validity or any obligations owed, whether by you or by any Third Party, under any Credit Enhancement of Third Party Credit Enhancement in respect of your obligations relating to the Covered Agreement which is subject to this Clause 2.22.

(b) You agree to do all such further things and execute such further documents as a Covered Entity may reasonably request to ensure that this Clause 2.22 extends to, and is effective and enforceable under applicable law with respect to, all Covered Agreements to which you are a party or provided by or to you. Without limiting the generality of the foregoing, with respect to any Covered Agreement between a Covered Entity and you to which a Third Party is also a party, you agree:

(i) that your rights under such Covered Agreement are subject to this Clause 2.22 as between you and the Covered Entity, and

(ii) to exercise any rights you may have to direct such Third Party to execute such further documents as may be necessary to give effect to this Clause 2.22.

(c) With respect to any Covered Agreement or Third Party Credit Enhancement that expressly requires the consent, approval, agreement, authorisation or other action (each a “consent”) of a Third Party to be obtained, in the event that your obligations under such arrangements are secured, guaranteed or otherwise supported by such Third Party Credit Enhancement, you represent and undertake that you have obtained the consent of such Third Party, and that you will, upon demand, deliver evidence of such consent. If you are a Third Party in relation to a Third Party Credit Enhancement, you are hereby deemed to have consented to this Clause 2.22 in respect of the Covered Agreements supported by such Third Party Credit Enhancement.

(d) Notwithstanding any provision in a Covered Agreement to which a Third Party is also a party or a Third Party Credit Enhancement that, in each case, expressly requires the consent of, or a separate written document signed by, all parties (including a Third Party) in order to make such Covered Agreement or Third

Party Credit Enhancement subject to this Clause 2.22, you agree and consent to:

- (i) make such Covered Agreement or Third Party Credit Enhancement subject to this Clause 2.22;
- (ii) such Third Party providing its consent to this Clause 2.22 in a separate written form; and
- (iii) the making of such Covered Agreement or Third party Credit Enhancement to be subject to this Clause 2.22 as between such Third Party and the relevant Covered Entity in such form as is consistent with this Clause 2.22.

#### 2.22.4 ISDA US PROTOCOL

(a) Prior adherence to the US Protocol: If you have adhered to the ISDA US Protocol prior to the date of the Customer Agreement, the terms of the ISDA US Protocol shall be incorporated into and form part of the Customer Agreement and shall replace the terms of this Clause 2.22. For purposes of incorporating the ISDA US Protocol, the Direct Party shall be deemed to be a “Regulated Entity” (as defined in the ISDA US Protocol), you shall be deemed to be an “Adhering Party” (as defined in the ISDA US Protocol) and each Covered Agreement shall be deemed to be a “Protocol Covered Agreement” (as defined in the ISDA US Protocol).

(b) Subsequent adherence to the US Protocol: In the event you adhere to the ISDA US Protocol after the date of the Customer Agreement, the terms of the ISDA US Protocol will prevail over the terms of this Clause 2.22 with respect to you and your Covered Agreements (as defined under the ISDA US Protocol) with all Covered Entities that are “Adhering Parties” (as defined in the ISDA US Protocol) to the ISDA US Protocol.

#### 2.23 EMIR MARGIN REPRESENTATION

**2.23.1** This representation applies only if you enter into a Transaction that constitutes a “foreign exchange forward” as defined in Article 27(a) of European Commission Delegated Regulation (EU) No 2016/2251 of 4 October 2016 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories with regard to regulatory technical standards for risk-mitigation techniques for OTC derivative contracts not cleared by a central counterparty, as amended from time to time, as it forms part of retained EU law as defined in the European Union (Withdrawal) Act 2018 (as that Act is amended from time to time, the “**Withdrawal Act**”) and as further amended from time to time.

**2.23.2** Unless you notify us otherwise, you represent to us on each date and at each time on which you enter into a Transaction (which representation will be deemed to be repeated by you at all times while such Transaction remains outstanding) that you neither qualify as an institution (as defined in point (3) of Article 4(1) of Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012, as amended from time to time, as it forms part of retained EU law as defined in the Withdrawal Act), nor would you qualify as one if you were established in the UK.

### 3. ACCOUNTS

**3.1 ACCOUNTS AND COMBINATION OF ACCOUNTS.** MSWM will manage the opening of one or more Accounts for you with

MSIP and any other Associated Firm that has agreed to provide additional Services to you. For the avoidance of doubt, MSWM is not responsible for approving Accounts and an Account may be opened at the sole and absolute discretion of MSIP. This may mean that you are required to meet calls for margin collateral on one Account notwithstanding the availability of balances on other Accounts. MSIP shall have the right to combine Accounts or make transfers between Accounts in its discretion in any circumstances.

#### 3.2 PAYMENTS TO YOUR ACCOUNT

**3.2.1** Payments to your Account may be made by telegraphic transfer or any other mode acceptable to Morgan Stanley. However, MSIP may at any time and at MSIP’s sole discretion refuse to accept any payment, limit the amount which may be paid into your Account, and return all or any part of any payment. You may incur charges at your remitting bank if payments are not accepted by MSIP and are returned to the remitting bank. You agree to bear and be solely responsible for any such charges, and acknowledge that you may not be able to use the funds for a period of time until such funds have been cleared by the remitting bank.

**3.2.2** If the bank on which a cheque was drawn returns it unpaid, MSIP will debit your Account with the amount of the cheque, whether or not your Account becomes overdrawn and even if your statement records the item or MSIP allowed you to make a payment against the item.

**3.2.3** You may incur charges and interest if payments are made from your Account before funds are cleared even if you appear to have a sufficient balance. In addition, if you pay into your Account a cheque that does not belong to you, and MSIP receives a claim relating to that cheque, MSIP may debit your Account with the amount of the cheque and any costs incurred by MSIP as a result of such claim.

**3.2.4** You authorise MSIP to negotiate or collect cheques payable outside Australia which may be sent to it from time to time for the credit of your Account, with full recourse in the event that any cheque is not paid. In the event of negotiation this authorisation shall apply as if it had accompanied each such cheque and applied expressly to it. If any such cheque is not paid for any reason, MSIP will debit your Account even if it has previously advised you that the amount of the cheque has been credited to your Account.

**3.2.5** In the absence of express Instructions from you, amounts that are received or paid for the credit or the debit of an Account in a currency other than that in which the Account is denominated may be converted by MSIP, in its discretion, and credited or debited to the Account.

**3.2.6** Where Morgan Stanley effects foreign currency conversions, Morgan Stanley will do so at MSIP’s prevailing rate of exchange for the size and nature of the Transaction on the Local Business Day on which the conversion is effected. In this respect, the timing of debits and credits to your Account will depend on the currencies involved.

**3.2.7** You must keep each Account in credit unless MSIP agrees to provide a Credit Facility. If any Account is overdrawn and MSIP has not agreed to provide a Credit Facility, you will pay MSIP interest on the overdrawn amount at a rate of interest based on its cost of funding and a spread, in each case depending on the



currency in which the overdrawn amount is denominated, and determined by MSIP in its discretion.

**3.2.8** If there has been no activity on your Account for a period of 12 consecutive months (or such other period as MSWM may notify you), MSWM may classify your Account as dormant. Upon classifying your Account as dormant, MSWM or MSIP may take such actions as are considered to be appropriate including but not limited to terminating the relationship with you.

**3.3 WITHDRAWALS FROM YOUR ACCOUNT.** Without prejudice to Clause 3.7 of Annex A (*Security Provisions*):

**3.3.1** Withdrawals may be made only on receipt of withdrawal Instructions in form and content satisfactory to Morgan Stanley. All Instructions for transfers must be in writing and signed in accordance with specimen signatures and authorisations received by MSWM.

**3.3.2** MSWM will specify such times by when withdrawal Instructions must be received.

**3.3.3** Withdrawals may be made by electronic transfer. Where agreed, withdrawals may be made from your Account by cheques issued by MSIP or MSIP's agent bank at your request.

**3.3.4** MSIP may refuse to act on any Instruction to make any payment from any Account if you do not have sufficient cleared funds or margin in the Account at the close of the business on the Local Business Day before the payment is due to be made.

#### 4. DEALINGS AND ADVICE

**4.1 NO OBLIGATION TO DEAL.** Morgan Stanley is not obliged to effect any particular Transaction, or to accept any order or act in accordance with any Instructions (including but not limited to in respect of funds transfer), nor give any reasons for declining to do so. MSWM reserves the right to refuse to accept or place a limit on any order in absolute discretion for any reason. MSWM will, subject to Applicable Regulations, make reasonable efforts to advise you of any refusal or limitation as soon as practicable but will not be liable for any failure to notify. Morgan Stanley will not be liable for any expense, loss or damage incurred by you where MSWM or MSIP declines a Transaction, an order or Instruction even if Morgan Stanley fails to notify you timely unless this is as a result of Morgan Stanley's gross negligence, bad faith, wilful default or fraud or is a breach of Applicable Regulation. Even then, Morgan Stanley will not be liable for any consequential or special damage.

**4.2 ELECTRONIC ORDERS AND FUND TRANSFERS.** MSWM may from time to time and subject to Applicable Regulations, in its absolute discretion, decide to accept or act upon any order (including but not limited to an Electronic Order) or Instruction. You acknowledge that there are various risks inherent in Electronic Orders, including without limitation, the risk of non-transmission, and the risk that a third party may illegally obtain access to the relevant facsimile machine, e-mail account, mobile phone or other electronic device or communication network and may fraudulently place Electronic Orders or obtain your confidential information. You agree that Morgan Stanley shall have no liability for any expense, loss or damage incurred by you or on your behalf as a result of, or in connection with, any unauthorised placing of Electronic Orders or loss of confidential information.

You must notify MSWM immediately should you become aware or suspect any fraud or interception of your electronic device or systems by any external party.

If Morgan Stanley acts on an Electronic Order it will have no liability whatsoever for any delay in receiving, accepting or acting upon it. Should Morgan Stanley so act on an Electronic Order Morgan Stanley is under no obligation to confirm the content thereof with you or any other person or otherwise take any steps to authenticate the communication. Any subsequent communication received from you relating to an Electronic Order may mean that Morgan Stanley disregard the Electronic Order even if Morgan Stanley had intended to accept or act upon it.

If Morgan Stanley declines an Electronic Order it will not be liable for any expense, loss or damage incurred by you even if Morgan Stanley fails to notify you of this unless this is as a result of Morgan Stanley's bad faith, wilful default, fraud or negligence. Even then, Morgan Stanley will not be liable for any consequential or special damages.

Subject to the foregoing, should you wish to place Electronic Orders you agree to provide in writing details of the electronic media accounts from which Morgan Stanley may accept Electronic Orders. Any changes to such details must be notified to Morgan Stanley immediately, but only take effect once acknowledged by Morgan Stanley in writing.

**4.3 NO DISCRETION.** Save where MSWM is effecting Transactions for you on a discretionary basis under a separate Discretionary Trading Module, Morgan Stanley is under no obligation to enter into any Transaction without prior reference to, or consent from, you. In particular, Morgan Stanley is under no obligation to make decisions regarding any Investment held by you nor to take any action or liquidate any Investment even in special circumstances including, but not limited to market disruption or failure.

**4.4 FOREIGN CURRENCY DEALING AND ENTERING INTO SPOT FOREIGN EXCHANGE CONTRACTS.** Subject to applicable fees and commissions, MSWM may, at your request and in MSIP's discretion, effect foreign currency conversions at the prevailing exchange rate and settling on such day as agreed between you and MSIP, subject to Applicable Regulations. MSIP may, from time to time, enter into Spot FX Transactions with you in accordance with the terms of the Customer Agreement (including the supplemental provisions set out in Appendix V (*Supplemental Provisions relating to FX Transactions*)). MSIP will enter into Transactions with you for forward purchase and sales of one currency for another only if you have entered into the Foreign Exchange Transactions Module and the Credit Module (and that you have applied for, and been granted, a Credit Facility under the Credit Module), the Derivatives Variation Margin Module (if applicable to your entity type), and any other Module as determined by Morgan Stanley.

**4.5 DISCLOSURE OF BENEFICIAL OWNERSHIP.** You must inform MSWM if you are not the beneficial owner of an Account or if any third party has any rights to any funds held in or paid into an Account or any other assets held in or delivered to an Account.

**4.6 NO ADVICE / EXECUTION-ONLY TRANSACTIONS.** Unless MSWM has specifically advised you in respect of an Investment and/or Transaction, or has effected a Transaction on your behalf on a discretionary basis, any Investments or Transactions will be

effected on an execution only basis. You acknowledge that in acquiring or entering into an Investment and/or Transaction on an execution only basis:

**4.6.1** you do so in reliance on your own judgment;

**4.6.2** you will have made the decision to deal in the light of your own assessment of your overall financial standing, in light of the composition of your investment portfolio and your other assets, and taking into account your investment objectives, attitude to risk, performance aspiration and tolerance to possible capital loss;

**4.6.3** MSWM is not required to consider or assess the appropriateness of the Investment and/or Transaction in view of your particular circumstances;

**4.6.4** MSWM will not advise you in relation to the retention or disposal of the Investment and/or the maintenance or termination of the Transaction; and

**4.6.5** you acknowledge that where MSWM merely explains the terms of an Investment or a Transaction or its performance characteristics, this does not amount to advice on the merits of, or Personal Financial Product Advice in respect of, that particular Investment or Transaction.

**4.7 PROVISION OF ADVICE BY MSWM.** Any advice provided under the Customer Agreement shall be provided by MSWM. MSWM may provide general or Personal Financial Product Advice.

**4.7.1** General advice is advice that does not take into account any of your investment objectives, personal circumstances, financial situation or needs. When MSWM provide general advice, you must consider the appropriateness of the advice, having regard to your objectives, financial situation and needs and you must read the relevant disclosure document in full and consider it before making any decision. Further, you should make your own decision on whether a particular financial product suits your needs.

**4.7.2** Personal Financial Product Advice is advice that does take into account your investment objectives, personal circumstances, financial situation and needs (collectively referred to as, "Personal Circumstances"). In order for your MSWM financial adviser to provide you with Personal Financial Product Advice, you will need to provide details of those Personal Circumstances. The ability of your MSWM financial adviser to provide appropriate advice for your circumstances is dependent on you providing complete and accurate information about your Personal Circumstances and advising your MSWM financial adviser of any relevant changes to that information. If you do not provide complete information or the information you provide is inaccurate, your MSWM financial adviser will be limited in their ability to make recommendations relevant to your needs. You should consider the appropriateness of any advice that is given based on incomplete or inaccurate information about your Personal Circumstances. MSWM or any related body corporate or representative does not accept any liability for advice given on the basis of inaccurate, out of date or incomplete information about your Personal Circumstances.

**4.8 CONFIRMATIONS.** Subject to Applicable Regulations, where MSWM carries out an order to deal in Investments in the course of providing Services under the Customer Agreement, MSWM will, except where otherwise agreed or where you receive that information from another person, promptly provide you with a trade confirmation confirming the execution of the trade and

setting out the essential information about it. Such details may include the execution time for your orders, details of where MSWM executed your order and the type of order (i.e. whether it was a market or limit order) and if applicable details of your counterparty where it was an Associated Firm, another client or a third party. Due to system constraints, subject to Applicable Regulations, Morgan Stanley may not be able to include all such information within the trade confirmations. Should you require any further information, please contact your MSWM Financial Adviser. Trade confirmations issued in connection with an ISDA must be signed and returned to Morgan Stanley within seven days of receipt. Morgan Stanley reserves the right to cease accepting further orders or entering into Transactions relating to an ISDA in the event you fail to provide any confirmations relating to an ISDA within this time.

MSWM shall also, on your request, supply you with information about the status of your trades. In addition, where MSWM carries out an order relating to units or shares in a collective investment undertaking that is part of a series of orders that are executed periodically, MSWM will arrange for MSIP to provide you at least every six months with a statement of Transactions during that period.

**4.9 USE OF TRADING INFORMATION.** Subject to Applicable Regulations, where you provide MSWM with information relating to an order or proposed Transaction, Morgan Stanley may use that information to facilitate the execution of your order or Transaction, in managing market making, other client facilitation activities or otherwise in carrying out legitimate business (which may include, but is not limited to, hedging a risk or otherwise limiting the risks to which Morgan Stanley may be exposed). Client facilitation activities may include, without limitation, the taking of a principal position in relation to providing clients with quotes or as part of the ongoing management of inventories used to facilitate services to clients. The effect of these and other trading activities may be to increase the market price of Investments you buy or decrease the market price of Investments you sell.

**4.10 NO REPORTING OBLIGATION.** Unless Morgan Stanley specifically agrees otherwise in writing, Morgan Stanley shall not be responsible for making any reports or disclosures to any governmental authority, regulatory authority, Exchange, Clearing House or similar body in connection with your affairs associated with the Customer Agreement.

## 5. ACCEPTANCE AND EXECUTION OF ORDERS

**5.1 MORGAN STANLEY'S CAPACITY.** When MSWM accepts any order or executes any Transaction in accordance with the Customer Agreement (including program trades), MSWM will act as agent (i.e. arrange the relevant Transaction on your behalf) and legally bind you in respect of such order or execution.

MSIP may:

**5.1.1** act as agent, principal, or a combination of both unless it is unambiguously clear from the terms of the order (and MSIP accepts those terms) or the Applicable Regulations in respect of an Exchange that MSIP shall act in a specific capacity;

**5.1.2** require you to sign and deliver further documentation if any Applicable Regulations require MSIP to act as your agent on an Exchange where MSIP cannot act as principal and if MSIP

requires this, then you undertake to sign and deliver that further documentation;

**5.1.3** in respect of Transactions in bonds and Investments under the Investment-Linked Products Module, purchase Investments as principal for on-sale to you with MSWM acting as your agent to legally bind you to such Transactions and Investments. You will bear the risk of any failure by the third-party issuer or counterparty to meet its obligations under any such Investments, as further described in the Investment-Linked Products Module.

**5.2 QUOTES.** In certain circumstances, in relation to quotes that MSIP publishes for equity and equity-like instruments, MSIP will be entitled to exercise trades on terms other than the quoted price including:

**5.2.1** limiting, on the basis of commercial policy and in a non-discriminatory way, the number of transactions from you which MSIP agrees to enter into at the published conditions;

**5.2.2** executing orders at a better price in justified cases, provided that the price falls within a public range close to market conditions; and

**5.2.3** where MSIP is executing several securities as part of one Transaction or in respect of orders that are subject to conditions other than the current market price.

In certain circumstances, in relation to quotes that MSIP publishes for equity and equity like instruments and for bonds MSIP may decide on the basis of commercial policy and in an objective and non-discriminatory way not to give you access to those quotes.

MSIP may update quotes at any time and withdraw quotes altogether under exceptional market conditions.

**5.3 SOURCES OF LIQUIDITY.** MSIP may meet your objectives by accessing its own internal sources of liquidity (including, crossing against client order flow, client facilitation, market making or principal trading), subject to you providing MSWM with any relevant consent where necessary or if MSIP otherwise determines that it is in your best interests to do so. This may mean that MSIP is trading as your agent and as principal on MSIP's own behalf and your order may not be executed on an Exchange's central trading system, but such trades will be reported if required in accordance with Applicable Regulations. MSIP's primary method of communication media to source liquidity and attract contra side trading interest is electronic indications of interest ("IOIs"). MSIP's "natural" IOIs designate expressions of client interest and genuine MSIP trading interest disseminated through electronic means but "non-natural" IOIs or "Super Messages" designate a more generalised willingness to transact.

**5.4 WHEN YOU ARE ACTING AS TRUSTEE.** If you are a trustee of a trust, you enter into the Customer Agreement and the Transactions as trustee of each trust for which you have submitted an Account Application Form. Each such trust is covered by your signing of the above documents, except that a separate Account Application Form must be completed for each trust. The Account Application Form you execute for each new account relationship requires you to make certain agreements and representations. A separate Account relationship will be created in respect of each such trust. All the provisions of the Customer Agreement shall apply separately as between each of MSIP and MSWM and you acting as trustee for each such trust, as if a separate agreement in all respects identical with the Customer Agreement has been entered into in respect of

each such trust. MSIP and MSWM acknowledge that they shall have no recourse against any trust for which you may be trustee for the obligations and liabilities to MSIP or MSWM incurred by you as trustee for another trust pursuant to the Customer Agreement.

**5.5 DISCLOSURE OF IDENTITY OF CLIENTS.** Where you are acting as trustee, MSWM or MSIP may be required by Applicable Regulations to procure that information on the person ultimately responsible for and/or beneficially interested in a Transaction is disclosed to one or more governmental agencies, regulators or Exchanges. You agree to comply with such disclosure requirements as may be set out in Modules or additional documentation from time to time.

**5.6 APPOINTMENT OF AGENTS.** You may from time to time notify MSWM in writing of any Agents appointed by you. These are persons who are authorised to purchase, sell and trade generally in, exercise, convert and otherwise arrange, enter into and carry out Transactions and give other Instructions relating to Investments and any of your Account(s) for your account and risk and in your name, and you will provide any evidence MSWM requires of that authority. MSWM acknowledges that such persons may be third party individuals or organisations who are not your directors, officers or employees. Until MSWM receives written notice to the contrary, MSWM may assume that each of those persons has full and unrestricted power to give Morgan Stanley Instructions on your behalf. MSWM may rely on any Instructions from persons who appear to have your authority.

**5.7 DEALINGS WITH YOUR AGENTS.** If you appoint an Agent, you must do so in writing in a form satisfactory to MSWM. Further, you acknowledge and agree that:

**5.7.1** until MSWM receives written notice to the contrary, MSWM is authorised to accept and act on any and all orders and Instructions received from the Agent with respect to your Account including (if authorised in writing by you) delivering or otherwise transferring Investments and/or paying monies to the Agent or otherwise as the Agent may order or direct, and to use, process or transfer your personal information disclosed by you or the Agent in accordance with the purposes set out in the Customer Agreement. For the avoidance of doubt, any termination of the Agent's authority will not affect any liability in any way resulting from Transactions initiated prior to Morgan Stanley's receipt of notice of such termination.

**5.7.2** in all matters or things concerning or incidental to any of your Account(s) and your Investments and the Customer Agreement, the Agent is authorised to act for you and on your behalf in the same manner and with the same effect as you might or could act.

**5.7.3** any Transaction entered into by the Agent will be governed by the Customer Agreement and that you and the Agent will have all the rights and obligations in relation to those Transactions as contained in such documentation and, without prejudice to the generality of this acknowledgment, you will indemnify Morgan Stanley and hold Morgan Stanley harmless from, and pay Morgan Stanley promptly on demand, any and all losses, reasonable costs and expenses, damages and liabilities whatsoever (including consequential and special damage) arising directly or indirectly in relation to those Transactions or debit balances due from them.

**5.7.4** you will ratify and confirm any and all Transactions made by the Agent for your Account(s).



**5.7.5** this Clause 5.7 and indemnity herein is in addition to, and in no way limits or restricts, any rights or powers which MSIP or MSWM may have under the Customer Agreement and any other agreement or agreements entered into between you and it.

**5.7.6** neither MSIP, MSWM nor any of their directors, officers or employees will in any way be liable for any loss howsoever suffered by you pursuant to your appointment of the Agent (unless such loss arises from its or their negligence, bad faith, wilful default, or fraud or breach of Applicable Regulations), or for any loss to you occasioned by the actions of the Agent, which are at your own risk.

**5.7.7** MSWM may assume that the Agent has full capacity, authority, licences and approval required to act as agent for you, and that its doing so will not contravene any Applicable Regulation or contractual provisions applicable to it.

**5.7.8** the Agent is authorised to disclose to Morgan Stanley (and to Morgan Stanley's agents, intermediate brokers and sub-custodians), and Morgan Stanley and its Associated Firms and/or other persons acting on their behalf are authorised to disclose to the Agent, information relating to you (including Your Information (as defined in Clause 20.4 (*Data Privacy*))) for the purposes set out in the Customer Agreement (including those in Clause 20 (*Confidentiality and Disclosure of Information*)).

**5.8 CONFLICTING INSTRUCTIONS.** If MSWM receives any conflicting or inconsistent Instructions from you and/or any other person on your behalf (including any Agent), MSWM may act on such Instructions as MSWM may in its discretion elect, and MSWM shall not be liable for any loss suffered by virtue of any relevant Investment(s) and/or Transaction(s).

Without prejudice to Clause 4.1 (*No Obligation to Deal*), where MSWM receives an Instruction which is subsequently amended, updated or otherwise changed, MSWM will not be obliged to act upon such amendment, update or change. Morgan Stanley shall not be liable for any loss suffered should Morgan Stanley fail to so act or act but do so only after the original Instruction has been carried out. For the avoidance of doubt, you will remain fully responsible under the terms of the Customer Agreement for both the original Instruction and any amendment, update or change thereto.

**5.9 PLACING OF INSTRUCTIONS.** You may give MSWM Instructions orally by telephone, unless MSWM requires you to also confirm such oral Instructions in writing. Where MSWM requests that you also confirm your oral Instructions in writing, MSWM reserves the right to follow your oral Instructions notwithstanding your failure to confirm them in writing. **However, receipt of an Instruction via any medium is not a representation that such Instruction is accepted.**

**5.10 ACTING ON YOUR INSTRUCTIONS.** MSWM will use reasonable endeavours to give effect to your Instructions promptly, but MSWM may not be able to do so in certain circumstances, for example, due to time zone differences between Australia and the UK or other relevant markets. MSWM will not be responsible for reasonable delays in giving effect to your Instructions.

**5.11 GENUINENESS OF INSTRUCTIONS.** Morgan Stanley will not be liable for any actions taken or omitted to be taken in good faith pursuant to any instructions received under the Customer

Agreement. Morgan Stanley is entitled to rely on any document or communication which Morgan Stanley reasonably believes to be a notification or an oral communication without further enquiry. Morgan Stanley is not required to confirm or verify the accuracy or completeness of any information or Instruction before it is acted or otherwise relied upon. Morgan Stanley will not be responsible for confirming receipt of your Instructions.

**5.12 MARKET CONDUCT.** You shall observe the standard of behaviour reasonably expected of persons in your position in relation to any relevant Exchange and not take any step which would cause Morgan Stanley or its Associated Firms to fail to observe the standard of behaviour reasonably expected of persons in their position.

**5.13 LIMIT ORDERS.** Where MSWM accepts any limit order in respect of an Investment in which MSIP or an Associated Firm acts as market maker or otherwise as principal, MSWM shall not execute that order unless the following conditions are met:

**5.13.1** (i) in the case of a sell order, the market price for that Investment is the same or higher than that specified in the order, or (ii) in the case of a buy order, the market price for that Investment is the same or lower than that specified in the order, with a view to purchasing or selling (as the case may be) the Investment concerned in the amount of the order; and

**5.13.2** until MSWM executes the limit order, MSIP may buy the Investment (where the order was to buy) at a price equal to or lower than that stated in the order, or sell it (where the order was to sell) at a price equal to or higher than that so stated. Any purchase or sale may be from or to any third party and for its own account or for the account of any Associated Firm.

## 6. DELEGATION

**6.1** Morgan Stanley may arrange for any Associated Firm or any member of a relevant Exchange, Trading Venue or Clearing House or any other person to carry out the Services (or any part thereof) which Morgan Stanley agrees to provide to you under the Customer Agreement.

**6.2** Transactions arranged by MSWM may be executed by MSWM or transmitted to MSIP or another Associated Firm or appropriate third party. However, MSIP, the Associated Firm or appropriate third party will not owe any obligations to you whatsoever. Instead, MSWM will, subject to the Customer Agreement and Applicable Regulations, be responsible for the execution of any Transaction in Investments.

## 7. AGGREGATION AND AVERAGING

**7.1 AGGREGATION.** MSWM may aggregate orders with MSWM's own (in house) orders or orders of MSWM's affiliates, connected customers, representatives and/or other customers where it is allowed under Applicable Regulations. Aggregation may operate on some occasions to your advantage, and on other occasions to your disadvantage.

**7.2 AVERAGING.** Market conditions may not permit your order to be executed at once or in a single Transaction. MSWM may therefore execute it over whatever period MSWM deems appropriate and MSWM may report to you an average price for a series of Transactions executed that way instead of the actual price of each Transaction.

**7.3 ALLOCATION ON DELIVERY OR EXERCISE.** Subject to Applicable Regulations, where the relevant Exchange or intermediate broker does not specify a particular Transaction when making a delivery or exercising an option, MSIP may allocate randomly or in a way which seems to Morgan Stanley to be most fair and equitable.

## 8. RESEARCH RECOMMENDATIONS

**8.1 RECEIPT.** Morgan Stanley and its Associated Firms may from time to time provide research reports and general recommendations to you (but are under no obligation to do so) and you may not receive these at the same time as Morgan Stanley's other clients.

**8.2 PRIOR INTERNAL USE.** Morgan Stanley's employees, officers and directors may receive, have knowledge of, act upon or use, except where that would be inconsistent with any Applicable Regulations, such research reports and general recommendations (or any conclusions expressed in them or research or analysis on which they are based) after they are published but before they are received by you.

**8.3 NO NEED TO TAKE ACCOUNT.** Morgan Stanley is not obliged to take account of any of such reports and recommendations when MSWM deal with or for you.

## 9. SETTLEMENT

**9.1 PRE-CONDITION TO SETTLEMENT.** MSIP's obligation to settle Transactions is conditional upon receipt by MSIP, or satisfactory confirmation of receipt by its settlement agents, of all necessary documents, securities or (except where a Credit Facility is available to you) funds (as the case may be).

**9.2 MSIP'S RESPONSIBILITIES WHEN ACTING AS AGENT.** Where MSIP has executed a Transaction as your agent, the other party to the Transaction, and not MSIP, is responsible for settling the Transaction with you and delivery or payment (as the case may be) will be at your risk. MSIP's obligation is only to pass on to you (or as you direct), or to credit to the Account, whatever deliverable documents or sale proceeds (as the case may be) MSIP actually receives.

**9.3 CHANGES IN THE MARKET.** Without limitation, Morgan Stanley does not accept any liability by reason of any delay or change in market conditions before any particular Transaction is effected.

**9.4 FAILURE TO SETTLE.** You agree to settle Transactions by the settlement date shown on the confirmation and to deliver to MSIP funds to cover any payment for the acquisition of Instruments or documents of title for the disposition of Instruments. If you fail to deliver such documents to MSIP by the date on the confirmation, MSIP may acquire equivalent Instruments at your expense to make good your default.

## 10. FEES AND CHARGES

**10.1 COMPOSITION OF CHARGES.** Fees and charges payable for the Services are set out in Appendix VI (*Quantifiable Monetary Benefits*), Appendix VII (*Details of Fees and Charges*), the Fee-based Account Supplement (if applicable), and in any additional documents MSWM may send to you from time to time and may be amended periodically.

Morgan Stanley may charge an administration fee ("Administration Fee") on the Account. Any Administration Fee charged will be in accordance with Appendix VII (*Details of Fees and Charges*) or as notified to you in writing from time to time. Morgan Stanley may

charge this Administration Fee without taking into account any Transactions or additional Services that are provided in respect of the Account, nor any additional fees/charges that are payable by you under the Customer Agreement.

Morgan Stanley's fees/charges vary according to the Transaction and client and therefore the fees/charges payable by you for any particular Transaction may differ from those incurred by another client in a similar Transaction. You may also need to pay other additional costs, including taxes that are not paid via MSIP but which arise in relation to Services provided by Morgan Stanley. Mark ups and additional commission (expressed as a percentage of the Transaction amount or the notional amount of each Transaction, as the case may be) are set out in Appendix VII (*Details of Fees and Charges*) and are subject to a minimum charge of USD150 per Transaction. There may however be occasions where Morgan Stanley charges at a rate over the stated commission, but will specifically disclose this to you before any charge is made at the time of the Transaction.

Morgan Stanley may amend Appendix VI (*Quantifiable Monetary Benefits*) and/or Appendix VII (*Details of Fees and Charges*) from time to time by providing you with amendment(s) thereto. Morgan Stanley will use reasonable endeavours to provide you with 30 days' advance notice of any such proposed revision to fees and charges, unless you agree to a shorter notice period.

Morgan Stanley may charge you any fees or costs incurred on your behalf in managing your Investments including any additional fees on termination and any taxes, brokerage, transfer fees, registration fees and other liabilities, costs and expenses payable in respect of each Transaction. In addition, Morgan Stanley may recover from your Investments or cash in the Account all such brokerage, commission and any other expenses (including those of any connected client) incurred in the administration of the Account. Morgan Stanley shall be entitled to realise such Investments as Morgan Stanley may in its reasonable discretion select to cover fees and expenses payable in respect of Services under the Customer Agreement.

If MSWM provides discretionary investment services as mandated by you under a separate Discretionary Trading Module, MSWM will charge you fees as set out in the fee schedule to such Module. Such fees may be substantial and it may be necessary for the discretionary account to make substantial trading profits to avoid depletion or exhaustion of its assets.

Subject to Applicable Regulations, if, in the course of executing your order, Morgan Stanley is able to obtain a better price than the order price quoted to you, Morgan Stanley may (at its discretion) include some or all of the price improvement in its fee or mark-up on the execution price. However, such fees or mark ups will at all times remain within the stated range disclosed (as amended from time to time).

Certain fees and charges associated with a Transaction will be notified to you in the applicable confirmation or otherwise after the execution of a Transaction. The funds to pay for such fees and charges must then be remitted to MSIP or such other party as MSWM may notify to you from time to time. Other fees and charges will be deducted from your Accounts when they fall due and will be disclosed to you in Account Statements unless MSWM notifies you otherwise.

Fees and charges are payable in the currency as notified to you on the relevant Transaction confirmation or Account Statement or otherwise. Amounts not remitted in such currency will be converted into the relevant currency at the prevailing exchange rate at the time of payment. Any costs in respect of such conversion are to be borne by you.

Any fees and charges paid by you to Morgan Stanley in respect of the Customer Agreement or a Transaction may be distributed among Morgan Stanley and/or Associated Firms as Morgan Stanley sees fit.

In certain circumstances, Morgan Stanley may in its discretion give you a discount on the fees and charges payable by you. In determining whether or not it is appropriate to give a discount to any client, Morgan Stanley will consider a number of factors, including without limitation the nature of the product, the fee or commission arrangements MSWM have with the issuers of the product and the value of the assets you hold in your Account(s) with Morgan Stanley.

Your MSWM financial adviser is remunerated on a base salary plus commission basis and may also receive a bonus under a balanced scorecard bonus plan. An annual total commission is payable once your MSWM financial adviser's base salary is covered and ranges from zero to 57% of the fees and other revenue received by MSWM which are attributable to your MSWM financial adviser ("Attributable Fees"), less any applicable fees and deductions. The exact rate is determined by reference to brokerage and fee revenue generated by your MSWM financial adviser for MSWM over the course of the financial year. Applicable fees and deductions may include referral fees, business development costs, discount adjustments for any fees charged which are below MSWM's standard fee schedule as well as any other costs that are incurred by MSWM.

Your MSWM financial adviser may also be eligible to receive an annual incentive benefit of up to 20% of Attributable Fees based upon factors including but not limited to achieving revenue targets, regulatory compliance and customer satisfaction.

If your MSWM financial adviser performs additional managerial roles for MSWM, they will be eligible to receive the commission referred to above in addition to their base salary. In addition to this, they will be eligible to receive a discretionary bonus based on their performance in their managerial role.

Managerial, paraplanning and other administrative staff may receive a bonus as part of their remuneration. The bonus is entirely at the discretion of MSWM's management.

MSWM employees and directors receive salaries, bonuses based on performance criteria and other benefits from MSWM.

**10.2 RECEIPT OF FEES, COMMISSION AND MONETARY AND NON-MONETARY BENEFITS.** Morgan Stanley may receive a fee, commission and/or other benefits (including both monetary and non-monetary benefits) from various parties (including third parties) whilst providing the Services, including but not limited to when Morgan Stanley executes Transactions.

Such fees, commission and/or benefits may come from an Associated Firm for which Morgan Stanley distributes Investments. In such circumstances Morgan Stanley may not explicitly receive monetary benefits for distributing Investments, but may nevertheless benefit indirectly from the origination and distribution of such Investments. In other cases, Morgan Stanley may receive monetary benefits in the

form of fees, commissions, rebates or other form of remuneration for distributing Investments issued by any Associated Firm, which are not quantifiable prior to or at the point of sale.

Morgan Stanley may receive trail fees from third parties or fund providers in relation to any of your Investments and you agree that Morgan Stanley may keep such trail fees where permitted under Applicable Regulations.

Further details of fees, commission and/or other benefits are set out in Appendix VII, which are subject to change from time to time.

Where MSIP distributes Undertakings for Collective Investment in Transferable Securities ("UCITS") or Packaged Retail and Insurance-based Investment Products ("PRIIPs"), MSIP shall additionally inform you about any other costs and associated charges related to the product as relevant which may have not been included in the UCITS Key Investor Information Document ("KIID") or PRIIPs KIID and about the costs and charges relating to MSIP's provision of investment services in relation to that financial instrument. MSIP may share charges with, or receive remuneration from, third parties (including Associated Firms) in respect of transactions MSIP carries out with or for you, or may provide or receive other non-monetary benefits in connection with the provision of Services to you provided that the payment or benefit:

(a) is designed to enhance the quality of the services that MSIP provides to you; and

(b) does not impair compliance with MSIP's duty to act honestly, fairly and professionally in accordance with your best interests.

Where MSIP pays or receive such amounts, MSIP will disclose the existence, nature and amount of the payment or benefit separately to you. Minor non-monetary benefits may be described in a generic way.

**10.3 SHARING OF FEES, COMMISSION, CHARGES AND NON-MONETARY BENEFITS WITH ASSOCIATED FIRMS AND OTHER PARTIES.** Morgan Stanley may share fees, commission, charges and other monetary and non-monetary benefits with Associated Firms or other third parties and they may share theirs with Morgan Stanley or otherwise remunerate Morgan Stanley on any basis agreed between Morgan Stanley and them. Morgan Stanley may also compensate Associated Firms or other third parties or consultants for the purpose of referring new business to Morgan Stanley.

**10.4 PAYMENT OF TAXES AND/OR FEES ON YOUR BEHALF.** MSIP may pay certain taxes and/or fees in whole or in part on your behalf whether or not it is you or MSIP that is responsible for doing so. Where MSIP opts to pay such taxes and/or fees on your behalf MSIP may or may not charge all or part of these to you. In any event MSIP reserves the right to change its approach at any time and to start or stop (as applicable) paying such taxes or fees in whole or in part or to start charging them to you.

**10.5 FURTHER DISCLOSURE.** Morgan Stanley hereby undertakes to disclose further details of arrangements relating to fees, commissions, charges, and other monetary and non-monetary benefits on request.

## **11. PROVISIONS REGARDING PAYMENTS AND DELIVERIES**

### **11.1 PAYMENTS AND DELIVERIES**

**11.1.1 PAYMENTS.** Unless otherwise agreed, all payments are required to be in immediately available, freely convertible funds of the relevant currency. Where funds are available but not in the relevant



currency, Morgan Stanley may convert the funds into the relevant currency at the prevailing exchange rate at the time of payment. Any costs in respect of such conversion are to be borne by you.

**11.1.2 DELIVERIES.** Whenever a party is required to deliver or redeliver an asset to settle a Transaction, that party will execute and deliver all necessary documents (including appropriate instruments of transfer duly stamped) and give all necessary instructions to ensure that all rights, title and interest in the asset will pass from that party to the transferee free from all liens, charges and encumbrances. Delivery and transfer of title will take place in accordance with the rules and procedures in force from time to time applicable to the relevant asset. If you fail to deliver or redeliver any asset to settle a Transaction, MSIP may in its discretion purchase or borrow assets in order to meet its settlement obligations to the relevant Exchange, Clearing House, intermediate broker or settlement agent, and MSIP shall have the right to charge you any fees or costs incurred by MSIP in connection therewith, including any taxes, brokerage, transfer fees, registration fees and other liabilities, costs and expenses payable in respect of the Transaction.

**11.2 SIMULTANEOUS PAYMENT AND DELIVERY.** Unless otherwise agreed in writing, wherever two parties have corresponding payment and delivery obligations to each other which are due at the same time, those payments and deliveries will be made simultaneously.

**11.3 POWER TO AGREE TO ALTERNATIVE SETTLEMENT.** Notwithstanding Clause 11.2 (Simultaneous Payment and Delivery) either party may from time to time in accordance with market practice and in recognition of the practical difficulties in arranging simultaneous delivery of assets and cash transfers waive, in writing, its right to simultaneous delivery and/or payment. No such waiver in respect of one Transaction will bind it in respect of any other delivery obligation.

**11.4 PROVISIONS APPLYING WHERE MSIP ARE NOT YOUR CUSTODIAN AND WHERE YOUR ACCOUNT IS MAINTAINED ON A DVP ACCOUNT.** If you have not appointed MSIP to be your custodian and the Account is maintained as a **DVP Account**:

**11.4.1** You shall arrange for your assets to be transferred into an External Account with such External Custodian as may be agreed between you and Morgan Stanley. You shall make arrangements for any External Custodian to act in accordance with Morgan Stanley's instructions promptly to receive or deliver cash or Investments and to deliver or cause to be delivered such certificates (or other documents constituting or evidencing title), instruments of transfer, powers of attorney and other documents as MSIP may require in order to transfer title. You may arrange for further assets to be transferred from time to time to your External Accounts.

**11.4.2** You shall make arrangements for any External Custodian to provide such assistance as MSIP may reasonably require in order to perform the Services including providing MSIP with access to systems or software that will enable MSIP to give settlement instructions, and to have access to records of the Investments in respect of your External Accounts. Where any External Custodian requires terms, conditions or procedures to be entered into or agreed by MSIP in connection with the above, MSIP shall do so as your agent and shall be under no obligation to review or negotiate such terms, conditions or procedures on your behalf.

**11.4.3** Upon termination, MSIP shall be entitled to direct the External Custodian to retain any assets as may be required to settle Transactions already initiated and to pay any of your outstanding liabilities. If insufficient cash is available to settle those outstanding Transactions and/or liabilities, MSIP may in its discretion sell any of your Investments as MSIP may select in order to realise funds sufficient to cover any outstanding amount, and/or cancel, close out, terminate or reverse any Transaction or enter into any other Transaction or do anything which has the effect of reducing or eliminating any outstanding amount or of reducing or eliminating liability under any contracts, positions or commitments that Morgan Stanley has undertaken on your behalf.

**11.4.4** MSIP will not be able to offer you certain Services (including provision of a Credit Facility) or permit you to enter into certain Transactions (including Margined Transactions). Accordingly, the following provisions and (where you have entered into the applicable Module) Modules of the General Dealing Terms will not be applicable to your DVP Account (collectively, the "De-activated Provisions"):

- (i) General Terms: Clause 18 (*Custodian Activities and Documents of Title*), Clause 19 (*Rights and Obligations in Respect of Investments*);
- (ii) Credit Module;
- (iii) Cross Guarantee Module;
- (iv) Foreign Exchange Transactions Module; and
- (v) Exchange Traded Derivatives Module.

For the avoidance of doubt, in the event you maintain more than one Account with MSIP and one or more of them are not DVP Accounts (such that you appoint MSIP as the custodian for such Account(s) that are not DVP Accounts), the De-activated Provisions will continue to apply to those Account(s) that are not DVP Accounts.

If in the future you decide to appoint MSIP as the custodian for a DVP Account, the De-activated Provisions will automatically apply to that Account.

**11.5 FUNDING / COLLATERAL REQUIREMENT.** Unless MSIP expressly agrees to the contrary, Transactions must be fully funded or collateralised to its satisfaction prior to settlement.

## 12. INDEMNIFICATION

**12.1 GENERAL INDEMNITY.** You (and your personal representatives) will fully indemnify each Indemnified Person against any Loss (including consequential and special loss) which any Indemnified Person may suffer or incur directly or indirectly as a result of, or in connection with, or arising out of the Customer Agreement or any Transaction (including a transaction pursuant to an Electronic Order) effected or purportedly effected on your Instructions or in the performance of the powers or duties of any such Indemnified Person or in connection with any claim, action, proceeding or investigation arising out of or in connection with the Customer Agreement or any Transaction (including legal fees and all costs of enforcement), including, without prejudice to the generality of the foregoing:

- (i) any and all Loss arising directly or indirectly in relation to any Transaction entered into by any Agent appointed by you; and
- (ii) any and all Loss arising directly or indirectly in relation to any of the Services Morgan Stanley has agreed to provide to

you, including the Services described in Appendix III (*Service Specific Disclosures*).

This indemnity will not extend to any Indemnified Person to the extent that such costs, expenses, damages, liabilities and losses result primarily from the bad faith, wilful default, fraud, negligence of, or breach by, that Indemnified Person of Applicable Regulations or as may otherwise be restricted by Applicable Regulations.

**12.2 JUDGMENT CURRENCY INDEMNITY.** The obligation of each party to make payments in the currency in which they are due will be enforceable as an alternative or additional cause of action to the extent (if any) by which any actual receipt falls short of the full amount of the appropriate currency and will not be affected by judgment being obtained for any other sums due under the Customer Agreement and any relevant Transaction.

### 13. EXCLUSION AND RESTRICTION OF LIABILITY

#### 13.1 EXCLUSION AND LIMITATION OF LIABILITY

**13.1.1** No Relevant Person shall be liable for, and you shall have no recourse against a Relevant Person for, any Loss (including any taxation or increase in taxation incurred by you or for any failure to insure or any consequential or special damage) you or any other person may suffer resulting from:

- (i) any act or omission made under or in relation to or in connection with the Customer Agreement or the Services;
- (ii) any act or omission as described in Clause 16 (*Relationship between Morgan Stanley and You*);
- (iii) any failure to effect any particular Transaction, to accept any order or to act in accordance with any Instruction;
- (iv) the appointment of any Agent or any action of any Agent (each of which is appointed by you at your own risk); and
- (v) a Relevant Person transmitting data or documentation to you through electronic mail, the internet or SMS, including any Loss arising from breaches of security caused by third parties.

**13.1.2** No express exclusion or restriction of liability in the Customer Agreement shall apply where your Loss is directly caused by:

- (i) any act or omission by a Relevant Person resulting from wilful default, fraud or negligence of that Relevant Person;
  - (ii) any act or omission of, or the insolvency of any sub-custodian that is not MSIP or an Associated Firm, if and to the extent your Loss is directly caused by a breach of MSIP's obligations in relation to the selection and monitoring of sub-custodians set out in Clause 18.2 (*Sub-custodians*);
  - (iii) a breach by MSIP of any provision of the FSMA or the FCA Rules; or
  - (iv) a breach by MSWM of any provision of the Corporations Act,
- or as may otherwise be restricted or prohibited by Applicable Regulations.

**13.2 NO LIABILITY FOR SPECIAL DAMAGES.** In no circumstances will any Relevant Person be liable, whether in contract, tort (including negligence) or otherwise, for any consequential, indirect or incidental losses or special or punitive damages, however they arise, even if advised of the possibility of such damages or losses.

**13.3 NO LIABILITY FOR YOUR ERRORS.** Morgan Stanley shall not be liable to you for any Loss resulting from any error by you or

your personal representatives and Agents in transmitting an order or Instruction to MSIP.

**13.4 NO LIABILITY FOR OTHERS.** Morgan Stanley shall not be liable to you for the solvency, acts or omissions of any broker, nominee, custodian, settlement agent, securities depository or other third party by whom or in whose control any of your Investments (or documents of, or certificates evidencing, title thereto) may be held or through whom any Transactions may be effected; or any bank with whom MSIP maintains any bank account, or any other third party with whom Morgan Stanley deals or transacts business or who is appointed by Morgan Stanley in good faith on your behalf, unless that broker, nominee, custodian, settlement agent, securities depository, bank or other third party is an Associated Firm.

**13.5 FORCE MAJEURE.** Morgan Stanley shall not be liable to you for any delay, or non-performance of any of its obligations under the Customer Agreement or for any other Loss you may incur by reason of any cause beyond its reasonable control. This includes but is not limited to any breakdown or failure of transmission, communication or computer facilities, postal or other strikes or similar industrial action and the failure of any relevant Exchange, Clearing House and/or broker for any reason to perform its obligations.

**13.6 NO EXCLUSION OF CERTAIN LIABILITIES.** Nothing in this Customer Agreement shall exclude or restrict:

- (i) any liability which Morgan Stanley has under Applicable Regulations,
- (ii) liability for death or personal injury resulting from Morgan Stanley's negligence; or
- (iii) any liability resulting primarily from the bad faith, wilful default, negligence or fraud by a Relevant Person.

### 14. TAXES

**14.1 PAYMENTS TO BE MADE GROSS.** Unless otherwise agreed, all sums payable by you under the Customer Agreement or in respect of any Transaction shall be paid free and clear of, and without withholding or deduction for, any taxes of whatsoever nature imposed, levied, collected, withheld or assessed by any authority having power to tax, unless the withholding or deduction of such taxes or duties is required by law. In that event, unless otherwise agreed, you shall pay any additional amounts as shall result in the net amounts receivable by MSIP (after taking account of that withholding or deduction) being equal to an amount as would have been received by MSIP had these taxes not been required to be withheld or deducted.

**14.2 LIMITATIONS OF LIABILITY.** Without limitation, Morgan Stanley does not accept liability for any adverse tax implications of any Transaction whatsoever.

**14.3 YOUR RESPONSIBILITIES.** You understand that your tax affairs are your own responsibility. You are fully responsible for payment of all other taxes due and for making all related claims, for exemption from withholding taxes or otherwise, for filing all tax returns and for providing relevant tax authorities with all necessary information in relation to any Services Morgan Stanley provides for or with you or any Investments which MSIP holds on your behalf or any Transactions effected by Morgan Stanley.

Depending on your personal circumstances, you may be entitled to a refund for tax withheld and you are responsible for making such claims to the relevant tax authorities.

Tax treatment depends entirely on your personal circumstances and individual status and may be subject to change. Morgan Stanley will not provide you with any tax, accounting legal or regulatory advice in respect of the Customer Agreement or any Transaction, and advises you to obtain (and you agree that you will so obtain) where appropriate independent tax, accounting, legal and regulatory advice.

**14.4 MSIP'S RESPONSIBILITIES - FORWARDING OF TAX DOCUMENTS.** MSIP will use all reasonable endeavours to forward to you any tax documents which MSIP receives relating to you or any monies or assets held by MSIP on your behalf.

#### **14.5 FOREIGN ACCOUNT TAX COMPLIANCE ACT**

**14.5.1** If MSIP determines that MSIP is required to make a deduction or withholding for or on account of tax imposed under Sections 1471 and 1472 of the US Internal Revenue Code of 1986 (or the US Treasury Regulations or other guidance issued under it, any associated intergovernmental agreement, any similar or associated Applicable Regulations or any agreement that MSIP enter into with a governmental or tax authority pursuant to any of the foregoing) (the "FATCA Withholding Tax") as a result of your status under US tax law and regulations, you authorise MSIP to make such deduction or withholding in respect of any sum payable by MSIP to you that is subject to the FATCA Withholding Tax, so that any payment to you will be made net of such deduction or withholding, and to pay any such deduction or withholding as may be necessary to the US Internal Revenue Service ("IRS"), another governmental or tax authority or any other person on behalf thereof.

**14.5.2** You agree that MSIP may gather, store, use, process, disclose and report to the IRS, any governmental or tax authority or any other person such information (including any information relating to any Account, Transaction or Service and the personal data of any person who is a direct or indirect beneficial owner, beneficiary or controlling person of you) necessary or helpful for MSIP to comply, as a result of your US tax status or the status of any beneficial owner of you, with any obligation that MSIP has or may become subject to in the future, whether in accordance with the provisions of any Applicable Regulations, or assumed by MSIP pursuant to an agreement with the IRS or another governmental or tax authority, to provide information or documentation, or necessary or helpful for MSIP to avoid or minimize the application of the FATCA Withholding Tax on payments that MSIP may receive or that MSIP may make to you.

**14.5.3** You agree to provide MSIP, within 90 days of its request, with:

- (i) any documentation or information relating to your identity and tax status and that of any person who is a direct or indirect beneficial owner, beneficiary or controlling person of you (including IRS Forms W-8 or W-9);
- (ii) any documentation or information relating to the direct or indirect ownership or holding of any Account or Transaction; and
- (iii) such written consents and waivers of applicable data protection legislation or other Applicable Regulations in a form provided or approved by MSIP from your direct and indirect

beneficial owners for the purpose of permitting MSIP to take the actions set forth in Clause 14.5.2 above.

**14.5.4** You agree to inform Morgan Stanley within 30 days if any of the foregoing information (including information contained in the documentation and forms described above) changes or is inaccurate, and to provide Morgan Stanley with updated documentation, forms and information.

**14.5.5** If you fail to provide Morgan Stanley with the information, documentation, forms, consents or waivers as described in Clauses 14.5.3 and 14.5.4 in a timely and accurate fashion, Morgan Stanley shall be entitled to reach whatever conclusions it considers to be appropriate as to the status of any Account or Transaction.

#### **15. DEFAULT INTEREST**

**15.1 ACCRUAL.** If you do not pay any sum due, interest will accrue on that sum until you do pay it (before as well as after judgment).

**15.2 RATE OF INTEREST.** Interest will be calculated at the rate set out in the relevant Modules or Supplements or other additional documents as provided to you from time to time or, if not set out, at the rate of 2 per cent per annum (or such other rate as we may notify you otherwise) above the base rate or prime rate (or its local equivalent) of the bank (or if there is more than one bank, the one determined by MSIP in its absolute discretion) at which MSIP maintains its principal securities entitlement or other relevant account of the relevant currency. If that rate cannot be ascertained for any reason or is insufficient to compensate Morgan Stanley for such loss or expense, as determined solely by Morgan Stanley, then that interest will be calculated at the rate per annum conclusively determined by MSIP to be equal to the loss suffered by Morgan Stanley or, as applicable, the cost to Morgan Stanley at prevailing market rates of funding the amount of your default.

#### **16. RELATIONSHIP BETWEEN MORGAN STANLEY AND YOU**

**16.1 EXTENT OF DUTIES UNDERTAKEN BY MORGAN STANLEY.** The relationship between Morgan Stanley and you is as described in the Customer Agreement. Neither that relationship nor the Services MSIP provides nor any other matter will give rise to any fiduciary or equitable duties which would prevent or hinder MSIP, in Transactions with or for you or in relation to Services provided by MSIP to you, acting as market maker/dealer or broker, principal or agent, doing business with or for you whether for Morgan Stanley's or Associated Firms' own accounts or with connected clients, and/or other clients or investors, and generally acting as provided in the Customer Agreement.

**16.2 MATERIAL OR CONFLICTING INTEREST.** Morgan Stanley and the Associated Firms have a policy for identifying, preventing and managing conflicts of interest between themselves (including managers and employees) or any person directly or indirectly linked to them by control and you, or between you and another client that arise in the course of providing you Services. Morgan Stanley and the Associated Firms have a Conflicts of Interest Policy which addresses business conduct and practices at Morgan Stanley that give rise to an actual or potential conflicts of interest. The Conflicts of Interest Policy sets out guidance on the identification of conflicts and the overall conflicts governance framework. Morgan Stanley and the Associated Firms also have in place procedures that identify



various activities that their business units must raise and clear through Morgan Stanley's Global Conflicts Office.

In providing Services to you under the Customer Agreement there may be occasions where Morgan Stanley and the Associated Firms have material or other conflicting interests. One of the methods through which Morgan Stanley and the Associated Firms manage conflicts of interest and meet regulatory requirements is to place certain Investments on a "restricted list" where the Investment relates to an entity for which Morgan Stanley or an Associated Firm is performing investment banking or other services. There are periods during which Morgan Stanley cannot provide advice or trade in relation to those Investments on the restricted list and you will not be advised of this fact.

Conflicts of interest (either actual or perceived) may potentially arise whenever Morgan Stanley has an economic or other incentive in its management of your Accounts to act in a way that benefits Morgan Stanley or its Associated Firms. You acknowledge and accept that, subject to Applicable Regulations, Morgan Stanley is entitled to enter into any Transaction for or with you, or to provide any Service to you notwithstanding that Morgan Stanley or an Associated Firm has or may have a material interest in the Transaction or any resulting Transaction or a relationship which gives rise to a conflict of interest or may owe duties to other clients which would otherwise conflict with Morgan Stanley's duties owed to you. However, in any such case Morgan Stanley may in its absolute discretion decline to act. In addition to the conflicts of interest mentioned above, Morgan Stanley discloses the following examples of conflicts of interest that may affect you:

- (a) your MSWM financial adviser is remunerated, wholly or in part, on a commission basis;
- (b) Morgan Stanley or an Associated Firm may have acted or may be acting or seeking to act as a financial adviser or lead manager to the issuer (or any of its affiliated companies) of Investments in which you are dealing or may have advised or are advising any person in connection with a merger, acquisition or take over by or for such issuer (or any of its affiliated companies);
- (c) Morgan Stanley or an Associated Firm may have sponsored or underwritten or otherwise participated in, or are sponsoring or underwriting or otherwise are participating in, a Transaction;
- (d) Morgan Stanley or an Associated Firm may have a holding, dealing, or market making position or may otherwise be trading or dealing in Investments or assets of any kind underlying, derived from or otherwise directly or indirectly related to such Investments or assets;
- (e) Morgan Stanley or an Associated Firm may have received or may be receiving payments or other benefits for giving business to the firm with which your order is placed;
- (f) if you have been referred to Morgan Stanley by a third party, that third party may have received or may be receiving payments or other benefits from Morgan Stanley for referring business to Morgan Stanley;
- (g) Morgan Stanley or an Associated Firm may have been or may be an associate of an issuer (or any of its affiliated companies), and such association or relationship may result in:

- (i) potential or actual conflicts of interest between Morgan Stanley's interests and your interests in respect of your investment in the product, and

- (ii) an incentive to favour sales of such investment products over sales of other investment products whose issuer is not so associated or who does not have such a relationship with Morgan Stanley or an Associated Firm;

- (h) Morgan Stanley may be matching your Transaction with that of any other client Morgan Stanley (including without limitation Morgan Stanley, any Associated Firm, a connected client or other client of Morgan Stanley) either on behalf of such person as well as on behalf of you ("agency cross") or by executing matching transactions at or about the same time with you and such person ("back to back principal trade"); and/or

- (i) Morgan Stanley or an Associated Firm may receive certain fees, commissions, charges, and other monetary and non-monetary benefits in offering certain investment products to you, and such benefits may result in:

- (i) potential or actual conflicts of interest between Morgan Stanley's interests and your interests in respect of your investment in the product and

- (ii) an incentive to favour sales of such investment products over sales of other investment products for which Morgan Stanley do not receive such benefits, or receive lower levels of benefits. Morgan Stanley will comply with legal and regulatory obligations towards you arising in connection with the receipt of such monetary benefits under Applicable Regulations (including, without limitation, conflicts of interest and disclosure obligations). Such monetary and/or non-monetary benefits are either disclosed in Clause 10 (*Fees and Charges*) above or will be disclosed to you separately before or at the time you place an order with Morgan Stanley in respect of such investment product.

This list is not intended to be exhaustive and Morgan Stanley may have other investments or relationships that could give rise to a conflict of interest. Morgan Stanley and the Associated Firms address potential conflicts through various arrangements and established policies including information barriers, handling of confidential information, gifts and entertainment and personal account dealing policies. In the unlikely circumstance that the organizational or administrative arrangements that are in place are not able to ensure, with reasonable confidence, that the risks of damage to you will be prevented, Morgan Stanley will disclose the source and nature of the conflict to you as soon as reasonably possible as well as the steps taken to mitigate those risks prior to providing Services to you. Further details about the Conflicts of Interest Policy are available upon request.

### 16.3 DISCLOSURES

**16.3.1** In providing the Services to you, Morgan Stanley will not disclose to you and shall not be required take into consideration any information, fact, matter or thing (for the purposes of this Clause 16.3, together "information") if:

- (i) the information is held on the other side of a 'Chinese wall' or information barrier from the individual making the decision or taking the step in question; or

(ii) disclosure or use of the information would breach a duty or confidence to any other person or result in a breach of Applicable Regulation.

**16.3.2** No further disclosure to, or consent from, you is required in relation to or as a result of any matter referred to in this Clause 16.

**16.4 RETENTION OF REMUNERATION OR BENEFITS.** Subject to Applicable Regulations, Morgan Stanley shall be entitled to retain any payment, remuneration, profit or benefit which arises in relation to, or as a result of, any relationship, arrangement or interest falling within this Clause 16 as if no such relationship, arrangement or interest existed. However, further information on monetary and non-monetary benefits Morgan Stanley may receive from third parties is provided in Clause 10 (*Fees and Charges*). In addition, Morgan Stanley shall not be obliged to disclose to you any matter, fact or thing if such disclosure would be a breach of Applicable Regulations, any duty owed by Morgan Stanley to any other person, or if the employee, officer or director who is dealing for or with you does not have actual notice of such matter, fact or thing.

## 17. CLIENT MONEY HELD WITH MSIP

This Clause 17 relates to cash constituting Client Money that is held for you by MSIP in connection with investment business.

### 17.1. APPROVED BANKS

**17.1.1** MSIP is not licensed as a bank or deposit-taking business, and funds can only be held for you by MSIP in connection with investment business. Unless otherwise agreed with you in writing, funds held for you by MSIP in connection with investment business will be held in accordance with the FCA's Client Money Rules. MSIP may deposit Client Money with an Approved Bank. Where MSIP holds Client Money for you such money will be deposited in an account(s) which is designated as an account for MSIP's clients. Such Client Money will be held on trust by MSIP on the terms set out in the Client Money Rules for the benefit of clients for whom MSIP is holding Client Money and will not be available to MSIP's creditors generally. Where the segregation of Client Money from the money of MSIP is not possible because of the law of the jurisdiction in which the funds are held, MSIP will comply with any provisions stipulated by the FCA may prescribe from time to time to protect your Client Money. However, this will mean that the Client Money no longer benefits from the relevant protections afforded under MiFID II.

**17.1.2** The Approved Bank at which your money may be held can be an Associated Firm permitted under the FCA Rules. Should your Client Money be deposited with an affiliated Approved Bank, MSIP is required to limit the Client Money that it deposits or holds with relevant group entities (as defined in the FCA Rules) so that those funds do not at any point in time exceed 20% of the balance on: (a) all of its general client bank accounts (as defined in the FCA Rules) considered in aggregate; (b) each of its designated client bank accounts (as defined in the FCA Rules); and (c) each of its designated client fund accounts (as defined in the FCA Rules).

**17.1.3** You agree to MSIP placing Client Money with a qualifying money market fund (as defined in the FCA Rules) unless you notify MSIP otherwise in writing. If MSIP provides custody of units in qualifying money market funds, it will do so in accordance with the FCA's Custody Rules and not in accordance with the Client

Money Rules and accordingly MSIP shall not be liable for any restriction on redemption or diminution in value of such units in a qualifying money market fund.

**17.1.4** Where MSIP holds funds on your behalf upon request, it will clearly inform you as to where such funds are held.

### 17.2 THIRD PARTIES, OVERSEAS BANKS AND INSOLVENCY RISKS

**17.2.1** MSIP may transfer Client Money to an Approved Bank or qualifying money market fund as set out above or a third party such as an Exchange, Clearing House, intermediate broker, settlement agent or OTC counterparty for the purpose of effecting a Transaction for you through or with that third party or to meet an obligation of yours to provide collateral for a Transaction. Except as required by Applicable Regulations and subject to Clause 13.4 (*No Liability for Others*), MSIP has no responsibility for any acts or omissions of any third party to whom it passes money received from you. The third party to whom MSIP passes money may hold it in an omnibus account and it may not be possible to separate such money from MSIP's money, or the third party's money. Where this is the case there is a risk, either as a result of the operation of the laws of the relevant jurisdiction or the failure by the third party to maintain proper records, that your Client Money could be withdrawn or used to meet obligations of other persons, or that the balance of Client Money held by the third party does not reconcile with the quantity which the third party is required to hold, and you may not in such circumstances receive your full entitlement of Client Money.

**17.2.2** You agree and acknowledge that where MSIP allows a third party to hold or control Client Money, this may involve a transfer of full ownership of the money to that third party, in which case you will no longer have a proprietary claim to such money and the transferee may deal with it in its own right. In the event of insolvency or other analogous proceedings in relation to that third party, MSIP will only have an unsecured claim against the third party on behalf of you and MSIP's other clients, and you will be exposed to the risk that the money received by MSIP from the third party is insufficient to satisfy the claims of you and all other clients with claims in respect of the relevant account.

**17.2.3** The Approved Bank, Exchange, Clearing House, intermediate broker or settlement agent or OTC counterparty at which your money may be held or to which it may be transferred can be outside the UK or EEA.

**17.2.4** The legal and regulatory regime applying to an Approved Bank, Exchange, Clearing House, intermediate broker, settlement agent or OTC counterparty outside the UK or EEA will be different from that of a bank, Exchange, Clearing House, intermediate broker, settlement agent or OTC counterparty within the UK or EEA. Your rights in respect of Client Money will differ accordingly. In particular, in the event of insolvency, your money may be treated differently from the way it would be treated if your money was held by an Approved Bank, Exchange, Clearing House, intermediate broker, settlement agent or OTC counterparty in the UK or EEA. You should consider taking independent legal advice if you are concerned about the implications of the above.

**17.2.5** MSIP may pass Client Money to an Exchange or Clearing House, inside or outside the UK. Certain Exchanges or Clearing

Houses may not acknowledge the notice which MSIP is required to serve on them which confirms that they have no right of set-off or counterclaim between MSIP's client accounts and any other accounts that MSIP may maintain with them. In such circumstances, your money might be treated in a different manner and may not be protected as effectively as if the money was held by a third party in the UK.

**17.2.6** To the extent permitted by relevant legislation and rules (including the FCA Rules), MSIP does not have any responsibility for any acts or omissions of any third party in respect of your Client Money.

**17.2.7** You acknowledge and agree that third parties may have security interests, liens or rights of set-off over your Client Money relating to debts owed by one or more of MSIP's clients or the provision of services by that third party to MSIP's clients.

**17.2.8** To the extent possible, MSIP will prevent third parties from having any security interests, liens or rights of set-off over your Client Money in order to recover debts not relating to MSIP's clients or to the provision of services by that third party to MSIP's clients. Where applicable law in a third country requires MSIP to permit this, MSIP will do so and you recognise that this means that your Client Money is at risk.

**17.3 INTEREST.** Unless otherwise agreed, interest will be payable on your money held by MSIP, at a rate determined by Morgan Stanley and notified to you from time to time. Interest can only be paid on funds held by MSIP for the purpose of future investment. The interest paid by MSIP to you will be paid at a gross rate which may be less than the prevailing money market rate. Interest will accrue on funds held by MSIP from the first day to the final day of every calendar month. Such interest will then be credited to your Client Money funds held by MSIP on the 10th business day in New York, US, of the following calendar month.

**17.4 UNCLAIMED BALANCES.** You agree that MSIP may, in its sole discretion, decide to pay away to a registered charity of its choice any money that MSIP holds for you as Client Money and, accordingly, release it from MSIP's client bank account(s) and cease to treat your money as Client Money if there has been no movement in your balance for a period of six years (notwithstanding any payments or receipts of charges, interest or similar items) and MSIP has been unable to contact you having taken reasonable steps in accordance with the Client Money Rules to trace you and return the money. MSIP undertakes to make good any valid claim against released balances.

**17.5 SECURITY INTERESTS AND RIGHT OF SET-OFF.** In accordance with Clause 25 (*Additional Rights*) and the Credit Support Document (as applicable), Client Money is subject to security interests, including a first fixed charge, a lien and right of set-off in MSIP's favour.

## **17.6 MONEY NOT CONSTITUTING CLIENT MONEY**

**17.6.1** Subject to your consent and on you being categorised as a Professional Client, money transferred to MSIP on a title transfer basis will not be Client Money. In particular, Client Money that is transferred by you to MSIP for the purpose of securing or otherwise covering present or future, actual, contingent or prospective obligations to MSIP will not be Client Money as title to such money will pass to MSIP. This means that you will no longer have a proprietary claim to such money, and MSIP may deal with the

money in its own right. Consequently, in the event of MSIP's insolvency, you will be a general unsecured creditor in respect of MSIP's obligations to repay cash transferred on a title transfer basis. In such case, you may not receive back any or all of the cash to which you have a contractual claim. The FCA's Client Money Distribution and Transfer Rules will not apply to cash transferred on a title transfer basis and you will have no entitlement to share in any distribution under those rules in respect of such cash. If you discharge your obligation to MSIP, MSIP will transfer title to the money back to you, and following such transfer, the money will be Client Money. For the avoidance of doubt, if you are categorised as a Retail Client your money will not be transferred to MSIP on a title transfer basis.

**17.6.2** Where any obligations owing to MSIP from you are due and payable to MSIP, MSIP may cease to treat as Client Money so much of the money held on your behalf as equals the amount of those obligations in accordance with the Client Money Rules. You agree that MSIP may apply that money in or towards satisfaction of all or part of those obligations due and payable to MSIP. For the purposes of the Customer Agreement, any such obligations become immediately due and payable, without notice or demand by MSIP, when incurred by you or on your behalf.

**17.7 CLIENT MONEY STATEMENTS.** At least once per quarter or as required by the Applicable Regulations, Morgan Stanley will provide you with a statement setting out details as to what Client Money you hold with MSIP as at the time the statement is issued.

**17.8 MSIP'S LIABILITY FOR THIRD PARTIES.** MSIP's liability to you for the solvency of or acts or omissions of any third party (including third parties appointed by MSIP to hold or control Client Money) is limited in accordance with the terms of the Customer Agreement. Nothing in the Customer Agreement shall exclude or restrict any liability which MSIP has under the FCA Rules or under the regulatory system (as defined in the FCA Rules).

## **18. CUSTODIAN ACTIVITIES AND DOCUMENTS OF TITLE**

### **18.1 CUSTODY ASSETS**

**18.1.1** You agree that MSIP may act as custodian and may appoint (subject to the FCA Rules and other Applicable Regulations) any other third party (including any Associated Firm) as a sub-custodian to hold or record your Investments in your Account (including documents of title or certificates evidencing title to such Investments) deposited or transferred by you or on your behalf with or to MSIP or MSIP's sub-custodian or collected by MSIP or MSIP's sub-custodian for your Account (including, except where absolute title to those Investments passes to MSIP, collateral) (the "Custody Assets"). Where MSIP holds Custody Assets in custody in your Account, MSIP shall hold such Custody Assets as trustee. MSIP's duties as trustee shall be subject to the terms of the Customer Agreement. MSIP is not acting as trustee in relation to any other Services or activity relating to the Customer Agreement. MSIP may open in your name one or more custody accounts to record any Custody Assets. MSIP reserves at all times the right to reverse any provisional or erroneous entries (including reversals necessary to reflect adjustments by its sub-custodian to its records as a result of bad deliveries) to the custody accounts with effect back-valued to the date upon which the final or correct entry (or no entry) should have been made.



**18.1.2** Where MSIP has Custody Assets delivered to or received by it, upon request it will clearly inform you as to where such assets are held.

## **18.2 SUB-CUSTODIANS**

**18.2.1** You agree that MSIP may appoint (subject to the FCA Rules and other Applicable Regulations) any other third party (including any Associated Firm) as a sub-custodian to hold or record the Custody Assets. Your Custody Assets may be subject to a lien, other security interest, or right of set-off in favour of any sub-custodian, depositary, nominee or agent in respect of charges relating to their administration and safekeeping. To the extent that charges that MSIP owes remain unpaid, the third party may be able to recover the amount of the charges owed to it out of your Custody Assets. This is in addition to any security interest or right of set-off that MSIP may have in relation to the safe custody Custody Assets pursuant to the Customer Agreement. Commensurate with the requirements of the FCA Rules, MSIP will exercise all due skill, care and diligence in the selection, appointment and periodic review of sub-custodians, will be responsible to you for the duration of the sub-custody agreement for satisfying itself as to the ongoing suitability of the sub-custodian to provide custodial services to its clients, will maintain an appropriate level of supervision over the sub-custodian and make appropriate enquiries periodically to confirm that the obligations of the sub-custodian continue to be competently discharged. The level of assessment conducted with regard to the selection and monitoring of any Associated Firm appointed as sub-custodian will be at least as rigorous as that performed on any non-affiliated company. MSIP will be responsible for loss you suffer that is caused by the fraud, negligence or wilful default of any sub-custodian which is an Associated Firm appointed by MSIP.

**18.2.2** Where MSIP has appointed a sub-custodian which is not an Associated Firm, it will not be liable for any act or omission, or for the insolvency, of such sub-custodian or for any loss arising therefrom unless, and except to the extent that, any loss suffered by you is directly caused by a breach of MSIP's obligations in relation to the selection and monitoring of sub-custodians set out in the paragraph above but subject at all times to the limitation on liability for consequential loss set out in Clause 13.1 (*Exclusion and Limitation of Liability*). In the event of insolvency or other analogous proceedings in relation to a third party appointed by MSIP, MSIP will only have an unsecured claim against the third party on behalf of you and MSIP's other clients, and you will be exposed to the risk that the assets received by MSIP from the third party are insufficient to satisfy the claims of you and all other clients with claims in respect of the relevant account.

**18.2.3** Where your Custody Assets are held by a third party on MSIP's behalf, you consent that your Custody Assets may be held in an omnibus account by the third party and there is a risk, either as a result of the operation of the laws of the relevant jurisdiction or the failure by the third party to maintain proper records, that your Custody Assets could be withdrawn or used to meet obligations of other persons, or that the balance of assets held by the third party does not reconcile with the quantity which the third party is required to hold, and you may not in such circumstances receive your full entitlement of Custody Assets.

**18.2.4** Where the segregation of Custody Assets from the assets of MSIP or those of any relevant third party is not possible because of the law of the jurisdiction in which the assets are held, MSIP will comply with **any provisions which may be stipulated by the FCA from time to time** in order to protect your Custody Assets. However, this will mean that the Custody Assets no longer benefits from the relevant protections afforded under MiFID.

**18.2.5** MSIP will be responsible for the acts of any nominee which is, or is controlled by, an Associated Firm (and therefore for any loss to you arising as a result of such acts) to the same extent (and subject to the limitations contained in Clause 13 (*Exclusion and Restriction of Liability*)) as MSIP is liable under the Customer Agreement for its own acts, including any act or omission, wilful default or fraud. Except as otherwise set out in this Clause, to the extent permitted by relevant legislation and rules (including the FCA Rules), MSIP does not have any responsibility for any acts or omissions of any third party in respect of your Custody Assets.

## **18.3 REGISTRATION AND RECORDING OF ASSETS**

**18.3.1** Where MSIP is responsible for registering legal title to Custody Assets that are in registrable form, it will arrange for the legal title to be registered in accordance with the FCA Rules. This may mean that the Custody Assets are registered:

- (a) in your name;
  - (b) in the name of a nominee company controlled by MSIP or an Associated Firm;
  - (c) in the name of a nominee company controlled by a sub-custodian;
  - (d) in the name of a nominee company controlled by an Exchange or Clearing House;
  - (e) with MSIP's consent, in such other name as you may direct in writing (at your own risk); or
  - (f) in MSIP's own name or the name of an Associated Firm.
- You consent to your Custody Assets being so registered. Those assets will be held (subject to Clause 1 (*Security*) of Annex A (*Security Provisions*)) on trust for you, except, in the case of assets held by a custodian, the rights against that custodian shall be held on trust for you.

**18.3.2** You agree that, where the Custody Asset is subject to the law or market practice of a jurisdiction outside the UK and MSIP has reasonably determined that it is in your best interests, or it is not feasible to do otherwise because of the nature of the applicable law or market practice, MSIP may, in accordance with the FCA Rules, register or record legal title to the Custody Assets in the name of a third party or in MSIP's name provided that:

- (a) if registering in the name of a third party, MSIP is prevented from registering the Custody Assets in your name or the name of a nominee company; and
- (b) if registering in MSIP's name, MSIP is prevented from registering the Custody Assets in your name, the name of a nominee company or in the name of a third party. As a consequence, in the case of registration in the name of MSIP or that of a third party, the Custody Assets may not be segregated from MSIP's or the third party's assets and in the event of MSIP's or the third party's default, the Custody Assets may not be as well protected. Local law may make it impossible to identify your assets separately

from the third party's assets or MSIP's assets. One consequence of this is that in the event of an irreconcilable shortfall in assets following the default of the third party or MSIP, or any challenge to the rights of such persons in any assets, you may share in that shortfall with others whose assets were held with the third party or MSIP. The Custody Assets will remain separately identified from MSIP's own assets and those of any third party in its books and records in accordance with the FCA Rules.

**18.4 REGISTRATION OF COLLATERAL.** Assets held as collateral will not necessarily be registered in your name. This is particularly the case where collateral is deposited with, pledged, charged or otherwise secured to or in favour of a third party (for example, an intermediate broker, Exchange or Clearing House).

**18.5 OVERSEAS CUSTODY.** MSIP may, where it considers it appropriate to the provision of the Services that have been requested by you, arrange for your Custody Assets to be held outside of the UK. There may be different settlement, legal and regulatory requirements in overseas jurisdictions from those applying in the UK, together with different practices for the separate identification of the Custody Assets. Where:

(a) you are a Professional Client; or

(b) the nature of the Custody Assets or Services requires MSIP to do so,

it may hold Custody Assets with a third party in a country outside the UK, which does not regulate the holding and safekeeping of Custody Assets and in requesting such Services, you require MSIP to deposit its Custody Assets with such third parties. Where the Custody Assets are held by a third party on MSIP's behalf, there may be a risk that, on the insolvency of the third party, the Custody Assets could be withdrawn or used to meet obligations of other persons, either as a result of the operation of the laws of the relevant jurisdiction or the failure by the third party to maintain proper records. That may mean that you do not get back all (or any) of the Investments that have been deposited with the relevant third party. MSIP is required by the FCA Rules to apply due diligence when appointing third parties to hold your Custody Assets and to take into account any legal requirements or market practices that could affect your rights. Details of MSIP's sub-custody network are available upon written request. You shall determine whether you wish to access such markets.

**18.6 POOLING OF ASSETS.** MSIP may hold your Custody Assets with those of other clients in an omnibus client account with a depositary, sub-custodian or other third party such as a Clearing House. In such case, your individual client entitlements may not be identifiable by separate certificates, other physical documents of title or equivalent electronic records. Where your Custody Assets are held in an omnibus account, there is a risk that your Custody Assets could be withdrawn or used to meet obligations of other persons, or that the balance of assets held by the third party does not reconcile with the quantity which the third party is required to hold, and you may not in such circumstances receive your full entitlement of Custody Assets (a "shortfall"). In the event of a shortfall of any particular type of Custody Assets, all clients whose Custody Assets are held in the omnibus client account will share in the shortfall on a pro-rata basis. Your pro-rata share of any shortfall may also be subject to change or affected by subsequent transactions in the relevant Custody Asset. Where MSIP distributes

entitlements or benefits on a pro-rata basis and your pro-rata share of the distribution is less than an integral number of units, MSIP shall round down the number of units that it will distribute to each client to an integral number and pay you the balance in cash. In addition, a shortfall may also affect the way MSIP distributes any entitlement to shares and other benefits arising from a corporate event in respect of any particular type of Custody Asset.

Where omnibus client accounts are used as part of the settlement process, your Custody Assets held in such accounts may be used to meet other clients' obligations. Such use of your Custody Assets held in omnibus client accounts may:

(a) arise from settlement delays, timing differences or MSIP's settlement processes and/or

(b) relate to other clients' transactions (including those involving MSIP). Subject to Clause 18.13 (*Central Securities Depositories Regulation*), you consent to your Custody Assets being held in omnibus client accounts and the activities conducted through such accounts.

Where you are a Professional Client, in addition to the above, your Custody Assets held in omnibus client accounts may also be used in relation to other transactions to which MSIP is a party (including exercise of MSIP's contractual right to use other clients' Custody Assets for its own purposes). In addition to the consent provided above, you further consent to your Custody Assets being used in the circumstances described in this paragraph (but subject always to any terms agreed with you in relation to MSIP's right to use your Custody Assets for MSIP's own purposes).

**18.7 SHORTFALLS.** Where the omnibus client accounts experience shortfalls (which may include those arising from settlement delays, timing differences or otherwise) in order to provide protection to the overall omnibus pool whilst the shortfall is being resolved, MSIP will (in accordance with FCA Rules) cover the shortfall by appropriating either:

(a) a sufficient number of MSIP's own assets to cover the value of the shortfall and hold them for the relevant customers under the FCA Rules; or

(b) a sufficient amount of MSIP's own money to cover the value of the shortfall and hold it for the relevant customer as Client Money pursuant to the FCA Rules; or

(c) a number of assets and an amount of money (each in accordance with (a) or (b) above).

#### **18.8 SECURITY INTERESTS AND RIGHT OF SET-OFF.**

**18.8.1** In accordance with Clause 25 (*Additional Rights*), Custody Assets are subject to security interests, including a first fixed charge, a lien and right of set-off in MSIP's favour.

**18.8.2** You acknowledge and agree that third parties may have security interests, liens or rights of set-off over your Custody Assets relating to debts owed by one or more of MSIP's clients or the provision of services by that third party to MSIP's clients.

**18.8.3** To the extent possible, MSIP will prevent third parties from having any security interests, liens or rights of set-off over your Custody Assets in order to recover debts not relating to MSIP's clients or to the provision of services by that third party to MSIP's clients. Where applicable law in a third country requires MSIP to

permit this MSIP will do so when this is in your best interests and you recognise that this means that your Custody Assets are at risk.

**18.9 SECURITIES FINANCING TRANSACTIONS.** Where applicable, MSIP's obligations and responsibilities with respect to use of Secured Assets are set out in Annex A.

#### **18.10 ASSETS NOT CONSTITUTING CUSTODY ASSETS**

**18.10.1** Subject to your consent and on you being categorised as a Professional Client, assets transferred to MSIP on a title transfer basis will not be Custody Assets. In particular, Custody Assets that are transferred by you to MSIP for the purpose of securing or otherwise covering a present or future, actual, contingent or prospective obligation will no longer be Custody Assets as title to assets will pass to MSIP. This means that you will no longer have a proprietary claim to such assets, and MSIP may deal with the assets in its own right. Consequently, in the event of MSIP's insolvency, you will be a general unsecured creditor in respect of MSIP's obligations to redeliver equivalent investments transferred on a title transfer basis. In such case, you may not receive back any or all of the equivalent investments to which you have a contractual claim. Where MSIP exercises a right of use in the Customer Agreement over any Investments, this will have the effect of transferring title to those Investments to MSIP. The effect of the exercise of a right of use is therefore the same as that described in this paragraph in relation to Investments transferred to MSIP on a title transfer basis. If you discharge your obligation to MSIP, MSIP will transfer title to the assets back to you, and following such transfer, the assets will be Custody Assets. For the avoidance of doubt, if you are categorised as a Retail Client, your Custody Assets will not be transferred to MSIP on a title transfer basis.

**18.10.2** You agree that MSIP may, in its sole discretion, decide to:

(a) liquidate any unclaimed Custody Assets at market value, and pay away the proceeds; or

(b) pay away any such unclaimed Custody Assets, in either case to a registered charity of MSIP's choice if MSIP has held the relevant Custody Assets for at least 12 years; in the 12 years preceding the divestment of that Custody Asset MSIP has not received Instructions relating to any Custody Assets from you or on your behalf; and MSIP has been unable to contact you having taken reasonable steps in accordance with the FCA Rules to trace you and return the relevant Custody Assets, in which case MSIP shall cease to treat such assets as Custody Assets. In such circumstances, MSIP (or a relevant Associated Firm) will unconditionally undertake to pay you a sum equal to the value of the Investment at the time it was liquidated or paid away in the event that you seek to claim the relevant Investment in future.

**18.11 CUSTODY ASSET STATEMENTS.** At least once per quarter or as required by the Applicable Regulations, Morgan Stanley will provide you with a statement setting out details as to what Custody Assets you hold with MSIP as at the time the statement is issued.

**18.12 MSIP'S LIABILITY FOR THIRD PARTIES.** MSIP's liability to you for the solvency of or acts or omissions of any third party (including third parties appointed by MSIP to hold or control Custody Assets) is limited in accordance with the terms of the Customer Agreement. Nothing in the Customer Agreement shall exclude or restrict any liability which MSIP has under the FCA Rules or under the regulatory system (as defined in the FCA Rules).

For the avoidance of doubt, the Customer Agreement is not a prime brokerage agreement for the purposes of the FCA Rules.

#### **18.13 CENTRAL SECURITIES DEPOSITORIES REGULATION**

**18.13.1** The Central Securities Depositories Regulation ("CSDR"), which aims to increase the safety and efficiency of securities settlement and settlement infrastructures, provides rules about the different levels of account segregation that must be offered to clients holding securities with central securities depositories or international central securities depositories within the EEA (together, "CSDs"). This applies to all our clients who hold securities with central securities depositories within the EEA.

**18.13.2** MSIP, which provides you with clearing, settlement and custody services, is a direct participant of various CSDs including Euroclear Bank, Euroclear UK and Ireland Ltd and Clearstream Banking SA (Luxembourg) and is therefore required under CSDR to:

(a) disclose the prices and fees associated with its services – see the section titled "Pricing Disclosure" in Appendix IX (*Disclosures pursuant to the Central Securities Depositories Regulation*) which provides guidance on factors which affect fees and prices for the settlement and custody of relevant cash securities through MSIP;

(b) disclose details of the available account segregation models (i.e. omnibus or individual client segregated accounts) and the operational costs associated with each – see the section titled "CSDR Risk Disclosure" in Appendix IX (*Disclosures pursuant to the Central Securities Depositories Regulation*).

Unless agreed otherwise, the default account type for clients who hold securities with CSDs is an omnibus client segregated account, which holds securities for a number of clients on a collective basis but is segregated from MSIP's principal assets. In MSIP's own books and records, each client's individual entitlement to securities is recorded separately in a client account. Please refer to Clauses 18.6 (*Pooling of Assets*) and 18.7 (*Shortfalls*) which set out the basis upon which MSIP uses omnibus client accounts and how MSIP provides protection to the overall omnibus pool, should it experience intermittent shortfalls arising from settlement delays and the like. This Clause 18.13 represents an offer by MSIP for you to elect for an individual client segregated account instead of an omnibus client segregated account for securities held in Euroclear Bank, Euroclear UK and Ireland Ltd and Clearstream Banking SA (Luxembourg). Additional operational costs will apply to your Trading Account should you elect to hold your securities with CSDs via an individual client segregated account. You only need to take action in relation to this Clause 18.13 if you elect to hold securities with CSDs in an individually client segregated account for an additional cost.

#### **19. RIGHTS AND OBLIGATIONS IN RESPECT OF INVESTMENTS**

This Clause 19 applies where MSIP holds Custody Assets for you under Clause 18 (*Custodian Activities and Documents of Title*). For the avoidance of doubt, the provisions under Clause 19 are subject to Applicable Regulations in respect of the relevant Custody Asset.

##### **19.1 CORPORATE ACTIONS**

**19.1.1** Where MSIP is notified that a Corporate Action may be exercised in relation to an Custody Assets credited to an Account, MSIP will use reasonable efforts to notify you as soon as practicable of such Corporate Action.



**19.1.2** If you wish to exercise a right relating to a Corporate Action in relation to any Custody Assets credited to your Account, you must notify MSIP in writing or electronically of your election as soon as possible but in any event no later than the expiry of MSIP's stated deadline for submissions of elections relating to that Corporate Action or, where no deadline is advised, within 10 Local Business Days prior to the final date for submission by MSIP of such elections (or such shorter period as may be agreed in writing). Following receipt of your written request, MSIP will use reasonable efforts to exercise such rights but only:

- (i) on such terms as you have notified to MSIP in writing and as are acceptable to MSIP (acting reasonably and in good faith), and
- (ii) where you have provided MSIP with any funds required to exercise such right.

**19.1.3** MSIP will use reasonable efforts to send you Corporate Action information as soon as reasonably practicable after receipt. This may have been sent to MSIP from a sub-custodian or agent bank for forwarding to holders whose Custody Assets are held in custody by MSIP. No representation or warranty, express or implied, is or will be made by MSIP in relation to the accuracy or completeness of the Corporate Action information or any other written or oral information made available to you or your advisers in connection with the proposed Corporate Action and no responsibility or liability is or will be accepted by MSIP in relation to it. You should make your own investigation of the proposed Corporate Action and all information provided.

**19.1.4** The distribution of the Corporate Action information in certain jurisdictions and/or your ability to participate in a Corporate Action may be restricted by Applicable Regulation in the jurisdiction in which you reside or conduct business, or by the issuer of the relevant Custody Asset. Any request for MSIP to exercise or participate on your behalf in the proposed Corporate Action shall be a representation to MSIP that you are entitled to so exercise or participate and that any and all restrictions or qualifications (including but not limited to any restrictions relating to the receipt of Corporate Action information) have been complied with. By accepting and executing such request on your behalf, MSIP is not making any representation or warranty about your eligibility to so exercise or participate in any such action.

**19.2 CALLS ON PARTLY PAID INVESTMENTS.** Where MSIP is legally liable to meet any payment due or to become due in respect of those Custody Assets, you will provide MSIP with funds to meet such payments on the due date thereof, or MSIP may make such payment and you will reimburse MSIP upon demand. Where you provide the necessary funds in time to do so, MSIP shall use reasonable endeavours to satisfy the call.

**19.3 COLLECTION OF INCOME AND INTEREST.** MSIP will credit to your Account any interest, dividends or other distributions of any kind whatsoever with respect to any such Custody Assets actually received by MSIP to which you are entitled as soon as reasonably practicable (although MSIP may deduct any taxes or duties payable).

**19.4 VOTING.** Generally, MSIP does not offer proxy voting services and will not initiate the exercise of any voting rights except in limited circumstances. Accordingly, MSIP may not notify you of voting rights attaching to Custody Assets held by it. Notwithstanding

the foregoing, you may upon 10 Local Business Days written notice (or such shorter notice as may be specified or appropriate) request MSIP to exercise voting rights on your behalf. Following receipt of your request, and as long as such vote is not contrary to the Conflicts of Interest Policy, MSIP may agree to use reasonable efforts to vote in accordance with your Instructions. Any request for MSIP to exercise voting rights shall be a continuing representation that you are entitled to exercise such voting rights and that any and all restrictions specified by the issuer or which exist under Applicable Regulation have been duly complied with.

MSIP's voting policy will depend on a number of factors and may vary from time to time. For example, MSIP may refuse to vote on your behalf where the law of the applicable jurisdiction does not recognise beneficial interests or nominee arrangements, or does not recognise partial or split voting or where voting on your behalf conflicts with its interests. MSIP reserves the right to change its voting policy and to exercise its discretion without notice or reference to you.

**19.5 REPORTING OBLIGATIONS.** You shall be solely responsible for compliance with any notification or other requirements of any jurisdiction relating to or affecting your ownership of the Custody Assets and MSIP assumes no liability for non-compliance with such requirements.

**19.6 PROCEEDINGS.** MSIP shall not be obliged to institute or participate in Proceedings, file a claim or proof of claim in any insolvency proceedings or take any action with respect to collection of any interest, dividends or other distributions of any kind whatsoever with respect to any Custody Assets, or to recover any cash or Custody Assets.

**19.7 DISCLAIMER.** If MSIP is voting or exercising rights relating to Corporate Actions on your behalf, you acknowledge that despite its reasonable efforts, MSIP may not be successful in voting or exercising rights in accordance with your preferences for practical or other reasons. Accordingly, you agree that such action would be taken at your own risk. MSIP will not be held liable or in any way responsible for the consequences of any failure to vote or exercise your rights or privileges in accordance with your preferences whether as a result of action taken by it or otherwise.

## 20. CONFIDENTIALITY AND DISCLOSURE OF INFORMATION

### 20.1 PROVISION OF INFORMATION

You shall provide Morgan Stanley on demand with all such information as Morgan Stanley may reasonably request in connection with the Customer Agreement, any Transaction or your ability to perform your obligations hereunder.

### 20.2 CONFIDENTIALITY

You and Morgan Stanley shall each treat as confidential (both during and after the termination of the relationship) any information learned about the other, its investment strategy, holdings, products or services in the course of the relationship and shall not disclose the same to any third party except on the other's instructions, with the other's prior written consent or in accordance with Clauses 20.3 (*Permitted Disclosure*) and 20.4 (*Data Privacy*). Neither you nor Morgan Stanley may disclose the Customer Agreement except:

- (i) to any professional or other adviser consulted by you or Morgan Stanley in relation to any rights or obligations that you or Morgan Stanley may have under the Customer Agreement;

(ii) in connection with the enforcement of rights that you or Morgan Stanley may have under the Customer Agreement;

(iii) to any of the Associated Firms where the disclosure is made on the basis that the recipient of the information will comply with this Clause 20 in the same way that each of you and Morgan Stanley are required to do;

(iv) where the information is already in the public domain, or where the disclosure would not otherwise breach any duty of confidentiality.

**20.3 PERMITTED DISCLOSURE.** Without limiting any other provisions of the Customer Agreement, Morgan Stanley is authorised by you, during or after termination of the relationship under this Customer Agreement, to do anything or disclose any matters which Morgan Stanley considers to be required by, or desirable in relation to, any relevant law, rule or regulation or authority (including without limitation, to comply with any court order, order or request of regulatory or supervisory bodies, tax or law enforcement authorities or stock exchanges), or in relation to or in connection with the business or dealings of Morgan Stanley or any Associated Firm. In addition, Morgan Stanley is authorised by you to disclose Your Information to a User (as defined in Clause 20.4 (*Data Privacy*)) for the purposes described in Clause 20.4 (*Data Privacy*) below. Without limiting the foregoing, you acknowledge and agree that Your Information may be shared with the directors, the management committees and other committees or bodies of Morgan Stanley and the Associated Firms for the purposes of performing governance or control responsibilities or in connection with the business or dealings of Morgan Stanley and the Associated Firms and/or to persons in order to comply with Applicable Regulations.

**20.4 DATA PRIVACY.** To observe Morgan Stanley's obligations and your rights under applicable data privacy laws and regulations such as AU PA and UK DPA, and for the purposes of Clause 20.2 (*Confidentiality*) above, Morgan Stanley draws your attention to the following provisions detailing how Morgan Stanley may collect, hold, store, disclose, process and transfer Your Information:

**20.4.1 WHAT INFORMATION DOES MORGAN STANLEY COLLECT?** Your Information may include the following types of personal data and other data you provide directly to Morgan Stanley well as information Morgan Stanley obtains from service providers:

(i) personal details, such as name, date of birth, number of dependents, occupation and marital status;

(ii) contact details such as address, telephone number, email, in some cases both private and work related contact details;

(iii) nationality and country of residence details, identification documents, such as your passport, national identity card or driver's license, as required by laws and regulations addressing due diligence and related matters;

(iv) personal identifier(s) such as, depending on your country of residence, your Social Security Number, National Insurance Number, Tax File Number, etc.;

(v) financial information, including source of wealth, investment experience and objectives, risk tolerance, directorship and shareholding information in any publicly traded corporations and, in certain jurisdictions, representations required under applicable law or regulation concerning your financial resources; and

(vi) information relating to political affiliations, trade union membership or criminal offences committed or alleged to have been committed.

#### 20.4.2 COLLECTION OF YOUR INFORMATION

(i) Morgan Stanley, the Associated Firms and/or other persons acting on their behalf may collect Your Information

(a) directly from you;

(b) through your agents, which include but are not limited to your Agents, trustees, professional advisers, investment advisers, investment managers and any other third party who has been authorised by you to instruct or communicate with Morgan Stanley on your behalf, such as your personal assistants; and

(c) when Morgan Stanley monitors or records communications with you or through use of certain technology as detailed further in Clause 20.4.10;

(d) from other information sources such as a credit reporting agency. Some of the information collected may be publicly accessible.

(ii) The information Morgan Stanley, the Associated Firms and/or other persons acting on their behalf collect about you is required by Morgan Stanley and the Associated Firms either to satisfy legal obligations to which they are subject, for their own legitimate business interests as described in Clause 20.4.4 (*Purposes of Processing and Use of Your Information*) or to open and maintain an Account with Morgan Stanley. While you have a choice in respect of providing the information required under the Customer Agreement or otherwise requested by Morgan Stanley, the Associated Firms and/or other persons acting on their behalf from time to time, if you do not supply this information, it may not be possible for you to open an Account as there may not be sufficient information for Morgan Stanley to open and administer the Account.

(iii) While Morgan Stanley makes every effort to ensure that all personal data held about you is accurate, complete and up to date, you can help considerably in this regard by promptly notifying Morgan Stanley if there are any changes to your personal data. To the extent permissible under Applicable Regulations, Morgan Stanley shall not be responsible for the authenticity of any personal data or sensitive personal data or any losses arising from any inaccurate or deficient personal data or sensitive personal data that you supply to Morgan Stanley.

**20.4.3 USE AND DISCLOSURE OF YOUR INFORMATION.** Your Information may be used by and disclosed to any of the following companies or persons (each a "User"):

(a) Morgan Stanley and the Associated Firms;

(b) any director, officer or employee of Morgan Stanley or the Associated Firms;

(c) any agent, contractor or third party service provider who provides services to Morgan Stanley or an Associated Firm;

(d) third parties such as settlement agents, overseas banks or Exchanges or Clearing Houses, intermediate brokers and sub-custodians to whom Morgan Stanley disclose in the course of providing the Services;

(e) any person for audit purposes, including without limitation internal auditors and external auditors;

(f) credit reference, fraud prevention and other similar agencies, and other financial institutions, with whom information is shared for credit and money laundering checking and fraud prevention purposes;

(g) national and international regulatory, taxation, enforcement, supervisory or exchange bodies or courts anywhere in the world as required by Applicable Regulations or at their request or other persons if required by Applicable Regulations;

(h) any third party investment services provider (for example, a fund manager or insurance service provider not affiliated with Morgan Stanley) but only if you have expressed an interest to subscribe for products and services offered by such third parties;

(j) any other person under a duty of confidentiality to any User;

(k) persons to whom Morgan Stanley assigns or novates rights or obligations under the Customer Agreement;

(l) any actual or proposed assignee or participant or sub-participant or transferee of, or any person taking or wishing to take security over, all or any part of the assets or business of any User; and

(m) any other third party whom you authorise Morgan Stanley to disclose to.

**20.4.4 PURPOSES OF PROCESSING AND USE OF YOUR INFORMATION.** Your Information may be used by any User for the following purposes:

(i) to carry out onboarding, account and data verification, credit, money laundering and conflict checks and for fraud and financial crime prevention purposes;

(ii) to tailor, administer and operate the Services being provided to you (including tailoring Investments, authorising or confirming Transactions and for billing purposes);

(iii) to pursue the legitimate business interests of Morgan Stanley or the Associated Firms, in particular in the course of the operational support and development of their business, including to evaluate customer service, efficiency and cost, as well as risk management purposes, and the performance of their governance or control responsibilities;

(iv) to exercise and defend its legal rights or that of any Associated Firm anywhere in the world;

(v) for direct marketing purposes with your consent where required under Applicable Regulations (see Clause 20.5 (*Direct Marketing*) below);

(vi) any purpose relating to or in connection with compliance with any Applicable Regulations, including any law, rule, regulation, code, guideline, circular, court order, order or request of regulatory or supervisory bodies, tax or law enforcement authorities, stock exchanges or guideline or guidance given or issued by any self-regulatory or industry bodies and in each instance, anywhere in the world; and

(vii) to comply with legal and regulatory requests made to Morgan Stanley or any Associated Firm anywhere in the world;

(viii) for reporting (including without limitation transaction reporting) to and audits by national and international regulatory,

enforcement or exchange bodies and complying with court orders associated with Morgan Stanley or any Associated Firm; and

(ix) for Monitoring Purposes as specified in Clause 20.4.10 (*Monitoring and Recording of Communications*).

**20.4.5 OVERSEAS DISCLOSURE OF YOUR INFORMATION.** Your Information may be disclosed to overseas Users and third parties outside of Australia and the UK located in the following countries and territories: Hong Kong, India, Japan, the PRC, Singapore, the US and any other countries and territories that Morgan Stanley may notify you from time to time. These disclosures may involve overseas storage and other overseas transfer, processing and use of Your Information, and disclosure to these third parties, including in or to countries or territories which do not offer the same level of protection of Your Information as is enjoyed within the jurisdiction applicable to you such as Australia or the UK. If this is the case, Morgan Stanley has put in place appropriate data transfer mechanisms, such as the EU Standard Contractual Clauses (as required) to ensure Your Information is protected. You can obtain a copy of the relevant data transfer mechanism Morgan Stanley has put in place to protect Your Information by contacting Morgan Stanley in accordance with Clause 20.4.9 (*Contact Person*).

**20.4.6 OVERSEAS DISCLOSURE OF YOUR INFORMATION FOR THE PURPOSES OF APPLICABLE REGULATIONS.** You acknowledge that pursuant to Applicable Regulations (including EMIR), regulators require reporting of trade data to increase market transparency and enable regulators to monitor systemic risk to ensure safeguards are implemented globally. Without limiting any other provisions in the Customer Agreement, you also acknowledge that Applicable Regulations impose a requirement on Morgan Stanley to report to regulators (in some cases on request):

(i) any OTC derivative contracts with you the confirmations in respect of which have been outstanding for more than five Local Business Days after the expiry of the relevant confirmation deadline imposed by the Applicable Regulations; and

(ii) any dispute with you relating to an OTC derivative contract, its valuation, or the exchange of collateral for an amount or value higher than EUR 15 million and outstanding for at least fifteen days (such term defined as days on which commercial banks and foreign exchange markets settle payments and are open for general business in London).

You acknowledge that Morgan Stanley is obliged under Applicable Regulations (including EMIR) to carry out such reporting in respect of certain derivative transactions between Morgan Stanley and you. This may include, without limitation, the disclosure of trade information including your identity (by name, address, corporate affiliation, identifier or otherwise) to any trade repository authorised under Applicable Regulations (including EMIR), as well as to any relevant regulators (including ASIC, or the FCA) and such disclosures could result in certain anonymous aggregated transaction and pricing data becoming available to the public.

You further acknowledge that, for purposes of complying with regulatory reporting obligations, Morgan Stanley may use a third party service provider to transfer trade information to a trade repository and that a trade repository may engage the services of a global trade repository regulated by one or more governmental



regulators. You also acknowledge that disclosures for such purposes may be made to recipients in a jurisdiction other than your own or a jurisdiction that may not necessarily provide an equivalent or adequate level of protection for personal data as your home jurisdiction.

**20.4.7 CONSENT TO OVERSEAS DISCLOSURE.** To the extent that applicable non-disclosure, confidentiality, bank secrecy, data privacy or other law imposes non-disclosure requirements on transaction and similar information required or permitted to be disclosed as described in Clauses 20.4.5 (*Overseas Disclosure of Your Information*) and 20.4.6 (*Overseas Disclosure of Your Information for the Purposes of Applicable Regulations*) but permits a party to waive such requirements by consent, you hereby give your consent to such waiver. Any other agreement between Morgan Stanley and you to maintain confidentiality of information arising pursuant to the remainder of this Clause 20 (*Confidentiality and Disclosure of Information*) or otherwise shall continue to apply to the extent that such agreement is not inconsistent with the disclosure of information as described above.

Nothing in this Clause 20.4.7 is intended to limit the scope of any other consent to disclosure separately given by you to Morgan Stanley.

Further to Clause 20.4.11 (*Third Party Information*), you represent and warrant that any third party to whom you owe a duty of confidence in respect of the information disclosed understands and, where required under Applicable Regulations, has consented to the disclosure of that information.

**20.4.8 RETENTION AND INDIVIDUAL RIGHTS.** Morgan Stanley retains Your Information in an identifiable form in accordance with its Global Records Information Management Policy which establishes general standards and procedures regarding the retention, handling and disposition of Your Information. Your Information is retained as long as necessary to meet legal, regulatory and business requirements. Retention periods may be extended where Morgan Stanley and/or the Associated Firms are required to preserve Your Information in connection with litigation, investigations and proceedings. To the extent provided by Applicable Regulations, you have the right to request access to and rectification or erasure of Your Information; to obtain restriction of the processing of Your Information; to object to the processing of Your Information (including direct marketing); and to data portability. If Morgan Stanley has collected Your Information with your consent, please note that you have the right to withdraw this consent at any time, subject to Applicable Regulations. If you wish to exercise any of your data protection rights or if you consider that Morgan Stanley has processed Your Information in violation of Applicable Regulations, please contact Morgan Stanley in accordance with Clause 20.4.9 (Contact Person). If you consider that Morgan Stanley has processed Your Information in violation of the Application Regulations and failed to remedy such violation to your reasonable satisfaction, you may also lodge a complaint with a supervisory authority.

**20.4.9 CONTACT PERSON.** If you wish to exercise any of the rights referred to in Clause 20.4.8 (*Retention and Individual Rights*), or to instruct Morgan Stanley or any Associated Firm (without charge) not to make further contact with you for direct marketing purposes, please do so by written request to the branch manager of the MSWM branch at which your MSWM financial adviser works.

Alternatively you may address your request to Technology, Privacy, IP and E-Commerce Legal Group, c/o Legal and Compliance Division, Morgan Stanley, International Commerce Centre, Kowloon, Hong Kong.

**20.4.10 MONITORING AND RECORDING OF COMMUNICATIONS.**

Morgan Stanley, the Associated Firms, and/or any other person acting on their behalf may access, review, disclose, intercept, monitor and/or record ("Monitor") your use of technology owned by or made accessible by Morgan Stanley, including but not limited to systems that facilitate verbal and electronic messaging and communications with you or your agent (such as telephone, sms, instant message, email and any other electronic or recordable communications), information processing, transmission, storage and access, as well as remote access ("Systems").

Morgan Stanley, the Associated Firms or any other person acting on their behalf will only Monitor Systems to the extent permissible under Applicable Regulations from time to time, including without limitation for the following Monitoring purposes ("Monitoring Purposes"):

- (i) to establish the existence of facts (e.g., keeping records of transactions);
- (ii) to ascertain compliance with regulatory or self-regulatory practices or procedures which relate to the business of Morgan Stanley or an Associated Firm;
- (iii) to ascertain or demonstrating standards which are achieved or ought to be achieved by persons using the Systems, including compliance with any terms of use associated with the Systems;
- (iv) to prevent, detect or investigate crime, money laundering, fraud, financial crime and/or other breaches of Applicable Regulations;
- (v) to comply with Applicable Regulations, the Customer Agreement and any applicable policies and procedures;
- (vi) to safeguard against the loss, theft, unauthorised and unlawful collection, use, disclosure, destruction or other processing or misuse of confidential and proprietary information;
- (vii) to prevent, detect or investigate unauthorised use of Systems and/or data (e.g., Monitoring to ensure compliance with the Morgan Stanley's policies and procedures, including without limitation those relating to information security and cyber security);
- (viii) to ensure the effective operation of Systems (including telephones, email and internet) systems;
- (ix) to assist with investigations, complaints, regulatory requests, litigation, arbitration, mediation or requests from individuals;
- (x) for legitimate business purposes such as for security or health and safety, for support and administration purposes to evaluate the quality of customer service, efficiency, cost and risk management purposes; or
- (xi) for any other legitimate purposes for which Morgan Stanley or an Associated Firm may be entitled to Monitor as notified to you via their Privacy Policy or other notices.

Monitoring is conducted by Morgan Stanley, the Associated Firms and/or any other person acting on its behalf using various methods, including:

- (i) the use of "intelligent" automated monitoring tools; or
- (ii) the IT filtering tools which randomly review Systems; or

(iii) through random monitoring of Systems, e.g. by authorised supervisors randomly joining on-going telephone calls on the sales and trading floors;

(iv) specific monitoring of key Systems e.g. in relation to investigations, regulatory requests, subject access requests, litigation, arbitration or mediation or;

(v) data tracking, aggregation and analysis tools that pull data from various disparate data sources to draw linkages and/or detect behavioural patterns, interactions or preferences for analysis (including predictive analysis); and/or

(vi) using other similar Monitoring technology that may become available from time to time.

Any documentation or records relating to the Monitoring of the Systems shall be prima facie evidence of any orders or communications Monitored and you agree that such records shall be admissible as such in any legal Proceedings. Furthermore, you confirm that you will not use, file, or cite as a reason for objecting to the admission of such records as evidence in any legal Proceedings either that Morgan Stanley's records are not originals, are not in writing or are documents produced by a computer. Morgan Stanley and the Associated Firms will retain such records in accordance with their operational procedures which may change from time to time in their absolute discretion. Please note that you should not rely upon Morgan Stanley and the Associated Firms to comply with your record keeping obligations and that you should keep adequate records in accordance with any Applicable Regulations to which you are subject.

**20.4.11 THIRD PARTY INFORMATION.** Before providing Morgan Stanley, an Associated Firm or any other person on their behalf with any information regarding an individual other than yourself in connection with the Customer Agreement, you should ensure that:

(i) the individual knows that you will be providing their information to Morgan Stanley or the Associated Firm;

(ii) the individual has been provided with the information set out in Clause 20.4 (*Data Privacy*) regarding collection, use, processing, disclosure and overseas disclosure of their information and the possibility of monitoring or recording of their or their agent's communications with Morgan Stanley, an Associated Firm and/or other persons acting on their behalf;

(iii) the individual has provided their consent to Morgan Stanley and Associated Firms processing their information or that another legal basis to process their information is satisfied; and

(iv) the individual is aware of their data protection rights and how to exercise these.

**20.4.12 USE OF COOKIES.** Morgan Stanley and the Associated Firms and/or other persons acting on their behalf use cookies and similar technology to collect information about you as part of and/or in connection with the Services. By accessing or using the Services you understand that Morgan Stanley will use such cookies and similar technologies as detailed in its Privacy and Cookies Policy. You understand that if you choose to reject the cookies, some or all parts of the Services may not function properly or may not be accessible. For more information on how Morgan Stanley and the Associated Firms use cookies and similar technologies, how Morgan Stanley and the Associated Firms process the information

obtained through cookies and how to reject cookies, please refer to the Privacy and Cookies Policy at [http://www.morganstanley.com/privacy\\_pledge](http://www.morganstanley.com/privacy_pledge).

**20.5 DIRECT MARKETING.** The following information is provided to you in accordance with the requirements of personal data protection laws applicable to you including without limitation, the AU PA where you are a natural person.

(i) If there are any products or services that Morgan Stanley or the Associated Firms believe may be of particular interest to you, whether provided by Morgan Stanley or Associated Firms or by third party investment services providers (for example, a fund manager or insurance service provider not affiliated with Morgan Stanley), then you may be contacted personally, either by Morgan Stanley or by an Associated Firm and you agree that Morgan Stanley or the Associated Firms may contact you outside standard working hours or if you are travelling overseas.

(ii) If Morgan Stanley and the Associated Firms intend to use Your Information in direct marketing purposes, Morgan Stanley will request your prior consent where it is legally required.

(iii) If you do not wish Morgan Stanley to use or provide to the Associated Firms Your Information for use in direct marketing as described above, you may notify Morgan Stanley in accordance with Clause 20.4.9 (*Contact Person*). Please note that if you do not wish Morgan Stanley or the Associated Firms to contact you for such purposes, Morgan Stanley or the Associated Firms may need to limit the range of products and services which Morgan Stanley or the Associated Firms will offer to you or Morgan Stanley or the Associated Firms may not be able to open an account for you or continue a relationship with you.

## 21. LIABILITIES AND MARGIN

**21.1 APPLICATION.** The rights set out in this Clause 21 to Clause 26 (*Events of Default*) and in Annex A (*Security Provisions*) will be exercisable in MSIP's discretion in respect of any one or more Accounts.

### 21.2 UNDERTAKING TO PAY MARGIN

**21.2.1** In respect of any Liability that you may incur to Morgan Stanley or Associated Firmss, you will provide to MSIP the margin that MSIP requires, calculated in whatever manner MSIP may determine and payable in whatever form MSIP in each case determines in MSIP's absolute discretion.

**21.2.2 FAILURE TO MEET MARGIN CALLS.** If you fail to meet any margin calls when due, such failure will constitute an Event of Default and MSIP will be entitled to exercise its rights set out in the Customer Agreement.

## 22. POWERS TO CLOSE OUT

**22.1 OCCURRENCE OF AN EVENT OF DEFAULT.** On an Event of Default, without prejudice to any other rights under the Customer Agreement or under any Transaction, contract or law, MSIP may without prior reference to you take any and all actions that MSIP considers to be necessary or desirable in the circumstances, including the following:

**22.1.1** to terminate one or more Transactions pursuant to Clause 23 (*Partial Close-Out and Netting*); and/or

**22.1.2** to terminate any or all Transactions pursuant to Clause 24 (*Total Close-Out and Netting*); and/or

**22.1.3** to sell or otherwise deal in MSIP's discretion with any of your Investments held under the Customer Agreement and upon such terms as MSIP in its absolute discretion think necessary (without being responsible for any loss or diminution in price) to realise funds sufficient to cover any amount due from you; and/or

**22.1.4** to close out, replace or reverse any Transaction, buy, sell, borrow or lend, or enter into any other transaction or take, or refrain from taking, such other action as, in its absolute discretion, MSIP considers necessary or appropriate to cover, reduce or eliminate its loss or liability Morgan Stanley may suffer or incur by virtue or pursuant to the Customer Agreement.

**22.2 CLOSE-OUT LOSS.** For the purposes of Clauses 23 (*Partial Close-Out and Netting*) and 24 (*Total Close-Out and Netting*), Close-Out Loss includes losses and costs (or gains) in respect of any payment or delivery required to have been made on or before the relevant Partial Close-Out Early Termination Date or Early Termination Date (as the case may be) and not made. Close-Out Loss will be determined as of the relevant Partial Close-Out Early Termination Date or Early Termination Date (as the case may be), or, if that is not reasonably practicable, as of the earliest practicable date thereafter. If that amount is a positive number, it shall be owing by you to MSIP; if it is a negative number it shall be owing by MSIP to you.

**22.3 STATEMENT.** On or as soon as reasonably practicable following the determinations made under Clauses 23 (*Partial Close-Out and Netting*) or 24 (*Total Close-Out and Netting*), MSIP will provide to you a statement showing such determinations in reasonable detail.

**22.4 APPLICATION.** All Transactions entered into under the Customer Agreement that are the subject of close-out and netting pursuant to Clauses 23 (*Partial Close-Out and Netting*) and/or 24 (*Total Close-Out and Netting*), are entered into under the single Customer Agreement between you and MSIP.

**22.5 PRE-ESTIMATE.** The parties agree that an amount recoverable under Clauses 23 (*Partial Close-Out and Netting*) and/or 24 (*Total Close-Out and Netting*) is a reasonable pre-estimate of loss and not a penalty. Such amount is payable for the loss of bargain and the loss of protection against future risks, and except as provided in the Customer Agreement or another agreement between you and MSIP, neither you nor MSIP will be entitled to recover any additional damages as a consequence of the termination of the Terminated Transactions.

## 23. PARTIAL CLOSE-OUT AND NETTING

**23.1 PARTIAL CLOSE-OUT NOTICE.** Without prejudice to MSIP's other rights under the Customer Agreement or under any Transaction, contract or law, on or following the occurrence of an Event of Default, MSIP may by notice to you (a "Partial Close-Out Notice") (and may give one or more Partial Close-Out Notices at any time while an Event of Default is continuing) declare that:

**23.1.1** such outstanding Exchange Traded Derivative Transactions as may be specified in the Partial Close-Out Notice will be terminated immediately in accordance with the terms of the Exchange Traded Derivatives Module and the Customer Agreement;

**23.1.2** such outstanding FX Transactions as may be specified in the Partial Close-Out Notice will be terminated immediately in accordance with the terms of the Foreign Exchange Transactions Module and the Customer Agreement;

**23.1.3** such other outstanding Transactions as may be specified in the Partial Close-Out Notice will be terminated immediately in accordance with the relevant default, close out or termination provisions of the relevant agreement between you and Morgan Stanley or the Associated Firm governing such Transaction(s) (which may be, but is not limited to, the Foreign Exchange Transactions Module, the ISDA and any other documentation between you and Morgan Stanley or an Associated Firm);

**23.1.4** such outstanding amount of the Credit Facility as may be specified in the Partial Close-Out Notice will be immediately repayable; and

**23.1.5** such amounts owing under the Customer Agreement as may be specified in the Partial Close-Out Notice will be immediately payable, so that the performance of the respective obligations of the parties with respect to payments and deliveries under each such Transaction shall be effected only in accordance with Clauses 23.2 (*Amounts Determined*) and Clause 23.3 (*Partial Close-Out and Netting*).

**23.2 AMOUNTS DETERMINED.** For the purposes of calculating the amount payable under Clause 23.3 (*Netting*), MSIP will determine as at the date on which the Partial Close-Out Notice is given ("Partial Close-Out Early Termination Date"):

**23.2.1** the Liquidation Amount in respect of all Exchange Traded Derivatives Transactions terminated under Clause 23.1.1;

**23.2.2** the Close-Out Loss of each party in respect of all FX Transactions terminated under Clause 23.1.2;

**23.2.3** the Close-Out Loss of each party in respect of all other Transactions terminated under Clause 23.1.3;

**23.2.4** the outstanding amount of the Credit Facility to be repaid by you under Clause 23.1.4; and

**23.2.5** all other amounts payable under Clause 23.1.5,

provided that the following shall not be taken into consideration for the purpose of such calculation under this Clause 23.2 or under Clause 23.3 (*Partial Close-Out and Netting*):

(i) any Investments which are credited to an Account and held by MSIP as custodian; or

(ii) Client Money. For the avoidance of doubt, such Investments and Client Money shall be taken into account in the enforcement of the Security and MSIP's other rights under the Customer Agreement.

**23.3 NETTING.** On the basis of the amounts so established, MSIP shall calculate (as at the date on which the Partial Close-Out Notice was served) what is owing from MSIP to you and from you to MSIP respectively under Clause 23.2 (*Amounts Determined*) and the amounts owing from one party shall be set off against the amounts owing from the other and only the balance shall be payable. Any such balance which is payable by you to MSIP shall be immediately due and payable and will form part of the Liabilities in respect of which MSIP may enforce the Security or exercise any of MSIP's other rights under the Customer Agreement or otherwise. Any such balance which is payable by MSIP to you shall be credited to such Account as MSIP shall determine (which Account shall remain subject to the Customer Agreement). For the purposes of this calculation, all sums not denominated in USD shall be converted by MSIP into USD at the prevailing market exchange rates. Clauses 24.5.2 and 24.5.3 shall apply in respect



of any amount payable under this Clause as if references in those Clauses to the Termination Amount were a reference to the net amount payable under this Clause.

## 24. TOTAL CLOSE-OUT AND NETTING

**24.1 EARLY TERMINATION.** On or following the occurrence of an Event of Default, without prejudice to any other rights under the Customer Agreement (including the giving of one or more Partial Close-Out Notices) or under any Transaction, contract or law, MSIP may by notice to you (a “Close-Out Notice”) declare that the provisions of this Clause 24 will apply. However, no Close-Out Notice is required to be given following the occurrence of an Event of Default described in Clause 26.3 (*Act of Insolvency*) in order for the provisions of this Clause 24.1 (*Early Termination*) to apply.

**24.2 CLOSE-OUT NOTICE.** The giving of a Close-Out Notice under Clause 24.1 (*Early Termination*) or the occurrence of an Event of Default described in Clause 26.3 (*Act of Insolvency*) shall constitute an immediate event of default or termination event (howsoever the same are described) under each agreement between you and MSIP, MSWM or any Associated Firm specified in the Close-Out Notice (or, in the case of the occurrence of an Event of Default described in Clause 26.3 (*Act of Insolvency*), each agreement between you, MSIP, MSWM or an Associated Firm) (each such agreement being a “Designated Customer Agreement”), whether or not the relevant Event of Default would otherwise constitute an event of default or termination event under any such Designated Customer Agreement and without the need for the giving of a separate notice or satisfaction of any condition under any such Designated Customer Agreement, but so that the giving of a Close-Out Notice in respect of one Designated Customer Agreement shall not prevent MSIP from giving a Close-Out Notice in respect of any other agreement or Designated Customer Agreement at any time.

**24.3 NO FURTHER PAYMENTS OR DELIVERIES.** Upon the giving of a Close-Out Notice under Clause 24.1 (*Early Termination*), or the occurrence of an Event of Default described in Clause 26.3 (*Act of Insolvency*), no further payments or deliveries under the Designated Customer Agreement in respect of outstanding Transactions will be required to be made, but without prejudice to the other provisions of the Designated Customer Agreement, and:

**24.3.1** where the Customer Agreement is a Designated Customer Agreement, all outstanding Exchange Traded Derivatives Transactions will, to the extent possible, be terminated immediately in accordance with the terms of the Exchange Traded Derivatives Module and the Customer Agreement;

**24.3.2** where the Customer Agreement is a Designated Customer Agreement, all outstanding FX Transactions will, to the extent possible, be terminated immediately in accordance with the terms of the Foreign Exchange Transactions Module and the Customer Agreement;

**24.3.3** all outstanding Transactions under the Designated Customer Agreement (other than Exchange Traded Derivatives Transactions and FX Transactions entered into under the Customer Agreement) will, to the extent possible, be terminated immediately in accordance with the relevant default, close-out or termination provisions of the Designated Customer Agreement;

**24.3.4** where the Customer Agreement is a Designated Customer Agreement, all outstanding Transactions not falling within any

other sub-paragraph of this Clause 24.3 will, to the extent possible, be terminated immediately in accordance with the terms of the Customer Agreement;

**24.3.5** where the Customer Agreement is a Designated Customer Agreement, the outstanding amount of the Credit Facility will be immediately repayable; and

**24.3.6** all other amounts owing under the Designated Customer Agreement (including, where the Customer Agreement is a Designated Customer Agreement, without limitation, any fees owing to Morgan Stanley) will be immediately payable and so that where this Clause 24.3.6 applies, performance of the respective obligations of the parties with respect to all payments, repayments and deliveries shall be effected only in accordance with Clauses 24.4 (*Amounts Determined*) and 24.5 (*Netting*) below.

Where an Event of Default described in Clause 26.3 (*Act of Insolvency*) shall have occurred, or if MSIP gives a Close-Out Notice under Clause 24.1 (*Early Termination*), all rights of the parties under each Designated Customer Agreement shall be subject to the provisions of Clause 23.6 (*Pre-estimate*) and the Security shall be deemed released in respect of such rights to the extent necessary under any Applicable Regulations to enable the operation of the netting pursuant to Clause 24.5 (*Netting*).

**24.4 AMOUNTS DETERMINED.** For the purposes of calculating the Termination Amount under Clause 24.5 (*Netting*), MSIP will determine as at the date (“Early Termination Date”) on which the Transactions referred to in Clause 24.3 (*No Further Payments or Deliveries*) (“Terminated Transactions”) are terminated:

**24.4.1** the Liquidation Amount with respect to all Exchange Traded Derivative Transactions terminated under Clause 24.3.1 or, to the extent that it is not possible to determine the Liquidation Amount in accordance with the Exchange Traded Derivatives Module, the Close-Out Loss in respect of such Transactions;

**24.4.2** where the Customer Agreement is a Designated Customer Agreement, the Close-Out Loss of each party in respect of all FX Transactions and other Transactions (other than Exchange Traded Derivatives Transactions) under the Customer Agreement terminated under Clauses 24.3.2 and 24.3.3;

**24.4.3** the Close-Out Loss of each party in respect of all Transactions terminated under Clause 24.3.4;

**24.4.4** where the Customer Agreement is a Designated Customer Agreement, the outstanding amount of the Credit Facility to be repaid by you under Clause 24.3.5; and

**24.4.5** all other amounts payable under Clause 24.3.6, provided that the following shall not be taken into consideration for the purpose of such calculation under this Clause 24.4 (*Amounts Determined*) or under Clause 24.5 (*Netting*): any Investments which are credited to Client Money.

## 24.5 NETTING

**24.5.1** On the basis of the amounts established in accordance with Clause 24.4 (*Amounts Determined*), MSIP shall calculate (as at the Early Termination Date) what is owing from each party to the other under Clause 24.4, and the amounts owing from one party shall be set off against the amounts owing from the other, and only the balance (the “Termination Amount”) will be payable by the relevant party. For the purposes of this calculation, all sums

not denominated in USD shall be converted by MSIP into USD at the prevailing market exchange rates;

**24.5.2** If the Termination Amount is payable by you to MSIP, that amount is immediately due and payable and will form part of the Liabilities in respect of which MSIP may enforce the Security or exercise any of MSIP's other rights under the Customer Agreement or otherwise; and

**24.5.3** If the Termination Amount is payable by MSIP to you, subject to any Set-off Process, MSIP shall, in satisfaction of MSIP's payment obligation, credit an equivalent amount to such Account as MSIP shall determine (which Account shall remain subject to the Customer Agreement).

## 25. ADDITIONAL RIGHTS

Whether or not an Event of Default has occurred, the following Clauses apply:

**25.1 PRE-CONDITION TO PAYMENT AND DELIVERIES.** Any obligation MSIP may have to pay or repay any money or deliver or redeliver any asset (whether as collateral or otherwise) will be conditional upon there being no outstanding Liabilities (whether or not then due or payable), no outstanding Transaction under which Liabilities could arise, and the complete, final and unconditional payment, satisfaction and discharge in full, of all other Liabilities.

**25.2 EXCLUSION OF EQUITIES.** You undertake to pay any amount payable in respect of any purchase on the due date regardless of any right of equity, set-off or counterclaim which you may have or allege against any of MSIP, MSWM the Associated Firms and any person connected with them.

**25.3 LIEN.** As further security for all your obligations under the Customer Agreement (but subject, in respect of MSIP, to the FCA Rules) MSIP will have the right to retain (and apply as set out below) all of your property at any time held by MSIP any purpose, including property held in any other accounts of yours with MSIP, irrespective of whether or not MSIP has made any advances in connection with that property, and MSIP may, without notice, transfer and re-transfer from time to time any money or other property between any of those accounts.

**25.4 SET-OFF.** As between MSIP and you, whether or not an Event of Default has occurred, any Liabilities owed to MSIP will, at MSIP's option (and without prior notice to you), be reduced by set-off against any amount(s) owing (whether or not then due and payable) to you by MSIP under the Customer Agreement and/or any other agreement between you and MSIP (and any such amount(s) owing by MSIP will be discharged to the extent it is so set-off). MSIP will give notice to you after any set-off is effected under this Clause.

**25.5 COMBINATION OF ACCOUNTS, SET-OFF AND TRANSFERS.** MSIP may from time to time without notice to you, combine, consolidate or merge all or any Accounts with any Liabilities. MSIP may from time to time without notice to you, apply and set-off any sum standing to the credit of any Account of whatever nature, in whatever currency, whether matured or unmatured, wherever situate and whether subject to notice or not, in or towards the payment, settlement and discharge of any Liabilities (whether under the Customer Agreement or otherwise) or any part or parts thereof. MSIP may do so notwithstanding that the balance on any

Account and the amount of any Liabilities may not be expressed in the same currency.

**25.6 CURRENCY CONVERSION.** MSIP may for any purpose under the Customer Agreement effect any necessary currency conversions at whatever rate of exchange MSIP, acting in a commercially reasonable manner, considers appropriate, subject to any Applicable Regulations.

## 26. EVENTS OF DEFAULT

The occurrence of each of the following will be an "Event of Default" for the purposes of the Customer Agreement and you shall be deemed to be in default under all other transactions and agreements between Morgan Stanley and you, without regard to any notice to be given, any grace periods or any other conditions to be satisfied.

**26.1 FAILURE TO PAY OR DELIVER.** You fail (or your Credit Support Provider fails) to make any payment or delivery or meet any margin call on the due date.

**26.2 DEFAULT IN OTHER OBLIGATIONS.** You (or your Credit Support Provider) fail to perform any of your (or your Credit Support Provider's) other obligations under the Customer Agreement and (where capable of remedy) you do not (or your Credit Support Provider does not) remedy that failure within 7 days after Morgan Stanley serves written notice of that failure on you.

**26.3 ACT OF INSOLVENCY.** The occurrence of any of the following (each an "Act of Insolvency"):

**26.3.1** you commence (or your Credit Support Provider commences):

(i) negotiations with one or more creditors with a view to reorganising or rescheduling any of your (or your Credit Support Provider's) indebtedness; or

(ii) a voluntary case or other procedure seeking or proposing liquidation, reorganisation, rescheduling, an arrangement or composition, a freeze, standstill or moratorium, or other similar relief with respect to you or your debts (or with respect to your Credit Support Provider or your Credit Support Provider's debts), or other arrangements with respect to merger with or consolidation of another entity or any other form of restructuring under any bankruptcy, insolvency, regulatory, supervisory or similar law (including any corporate or other law with potential application to you (or your Credit Support Provider's), whether you (or your Credit Support Provider's) are solvent or insolvent), or seeking the appointment of an Insolvency Official in respect of you or any substantial part of your (or your Credit Support Provider's) assets; or

(iii) any corporate action to authorise any of the foregoing;

**26.3.2** an involuntary case or other procedure is commenced against you (or your Credit Support Provider) seeking or proposing liquidation, reorganisation, an arrangement or composition, a freeze, standstill or moratorium, or other similar relief with respect to you (or your Credit Support Provider) or your (or your Credit Support Provider's) debts under any bankruptcy, insolvency, regulatory, supervisory or similar law (including any corporate or other law with potential application to you (or your Credit Support Provider), if insolvent) or seeking the appointment of an Insolvency Official in respect of you (or your Credit Support Provider's) or any substantial part of your assets;

**26.3.3** you are (or your Credit Support Provider is) unable to pay your (or your Credit Support Provider's) debts as they fall due or

are bankrupt or insolvent, as defined under any bankruptcy or insolvency law applicable to you (or your Credit Support Provider) or any indebtedness of yours (or of your Credit Support Provider) is not paid on the due date therefor, or becomes capable at any time of being declared, due and payable under agreements or instruments evidencing such indebtedness before it would otherwise have been due and payable, or Proceedings are commenced for any execution, any attachment or garnishment, or distress against, or an encumbrancer takes possession of, the whole or any part of your (or your Credit Support Provider's) property, undertaking or assets (tangible and intangible);

**26.3.4** you are (or your Credit Support Provider is) dissolved, or, if your (or your Credit Support Provider's) capacity or existence is dependent upon a record in a formal register, the registration is removed or ends, or any procedures are commenced seeking or proposing your (or your Credit Support Provider's) dissolution, removal from such a register, or the ending of such a registration;

**26.3.5** your (or your Credit Support Provider's) management or operations are temporarily or permanently taken over by or become subject to the supervision of any governmental or quasi-governmental authority.

You will use your best efforts to notify MSIP immediately if an Act of Insolvency occurs in relation to you (or your Credit Support Provider).

**26.4 REPRESENTATIONS INCORRECT.** Any representation made by you (or your Credit Support Provider) in or pursuant to the Customer Agreement was incorrect or untrue in any material respect when made or repeated or deemed to have been made or repeated or becomes incorrect at any time.

#### **26.5 CROSS DEFAULT**

**26.5.1** A default, potential event of default, event of default or termination event (however described) occurs or is declared under any transaction or agreement (whether or not arising under the Customer Agreement) between:

- (a) you or any of your affiliates or Credit Support Providers and
- (b) Morgan Stanley or any Associated Firm, or any other event specified for these purposes in a Module or Supplement or otherwise occurs; or

**26.5.2** In relation to you or any of your affiliates or Credit Support Providers, any indebtedness or other financial obligation in an amount greater than USD1,000,000 (or its equivalent in any other currency or currencies) is not paid or met at its stated maturity (or within any applicable grace period) or, by reason of any default, potential event of default, event of default or termination event (however described) on the part of you or any of your affiliates, becomes due prior to its stated maturity or, if payable or repayable on demand, is so demanded.

**26.6 CREDIT SUPPORT DEFAULT.** The occurrence of any of the following will be considered a credit support default and hence an Event of Default:

- (i) any Credit Support Provider fails to comply with or perform any agreement or obligation to be complied with or performed in accordance with the applicable Credit Support Document;
- (ii) any Credit Support Document expires or ceases to be in full force and effect prior to the satisfaction of all your obligations

under the Customer Agreement, unless otherwise agreed in writing by Morgan Stanley;

- (iii) any representation or warranty made or given or deemed made or given by any Credit Support Provider pursuant to any Credit Support Document proves to have been false or misleading in any material respect as at the time it was made or given or deemed made or given;

- (iv) any Credit Support Provider (or any Insolvency Official acting on its behalf) disaffirms, disclaims or repudiates any obligation under the Customer Agreement or any Credit Support Document; or

- (v) an Act of Insolvency occurs in respect of any Credit Support Provider.

**26.7 REPUDIATION.** You (or any Insolvency Official acting on your behalf) disaffirm, disclaim or repudiate any obligation under the Customer Agreement.

**26.8 BREACH OF APPLICABLE REGULATIONS.** An event occurs or circumstances arise or exist which Morgan Stanley reasonably consider are or might be a violation of any Applicable Regulation or good standard of market practice.

**26.9 MATERIAL ADVERSE CHANGE.** You or any of your affiliates or Credit Support Providers suffers a material adverse change in financial condition, results, prospects, properties, business or operations as determined by Morgan Stanley in its absolute discretion.

**26.10 DOMICILE CHANGE.** Your jurisdiction of domicile or ordinary residence changes or you fail to deliver within a reasonable period of time, on request by Morgan Stanley, evidence, reasonably satisfactory to Morgan Stanley, of your residence and domicile.

**26.11 DEATH OR UNSOUND MIND.** Where you are (or your Credit Support Provider is) a natural person, you (or your Credit Support Provider) die, become of unsound mind, or become incapable, by reason of mental disorder, of managing and administering your (or your Credit Support Provider's) property or affairs.

**26.12 CHANGE IN LAW.** In Morgan Stanley's reasonable opinion or belief, there is or may be a change in or adoption of a new law, regulation or policy or in its interpretation or administration or in the requirements, guidance or policy of any monetary, fiscal or other competent authority in or affecting the law of the jurisdiction of your (or your Credit Support Provider's) incorporation or domicile or residence or the jurisdiction of any currency, including without limitation imposition of capital or exchange controls or moratoria, which might, in any such case, have an adverse effect on the ability of:

**26.12.1** you (or your Credit Support Provider) or MSIP to make or receive any payment or delivery under the Customer Agreement or any Transaction (or any applicable Credit Support Document); or

**26.12.2** either party to any hedging transaction entered into in connection with Morgan Stanley's hedging of any Transaction to make or receive any payment or delivery under that hedging transaction.

**26.13 INJURY OR ILLNESS.** Where you are (or your Credit Support Provider is) a natural person, you (or your Credit Support Provider) become subject to an injury or illness which, in Morgan Stanley's reasonable opinion, has affected or will affect your ability to perform your (or your Credit Support Provider's) obligations under any Transaction or the Customer Agreement.



**26.14 MATRIMONIAL PROCEEDINGS.** Where you are (or your Credit Support Provider is) a natural person, an application for ancillary relief, or any other application or claim which has an analogous effect, is made, relating to any of your (or your Credit Support Provider's) property or entitlement under any contract to which you are (or your Credit Support Provider is) a party, in any matrimonial Proceedings relating to you (or your Credit Support Provider).

**26.15 CRIMINAL PROCEEDINGS OR INCARCERATION.** You become (or your Credit Support Provider becomes) subject to any criminal Proceedings in any jurisdiction in which you are (or your Credit Support Provider is) alleged to have been dishonest, or you are (or your Credit Support Provider is) incarcerated in any jurisdiction for any reason.

**26.16 MATERIAL DECREASE IN NET ASSET VALUE.** Where MSIP holds Custody Assets for you pursuant to Clause 18 (*Custodian Activities and Documents of Title*) on your behalf and/or you have entered into a Margined Transaction or any other Transaction where you have a Liability or a liability (actual or contingent) to MSIP or an Associated Firm, and there occurs a material decrease in your net asset value (measured solely by reference to the assets held by or under MSIP's control or the control of any Associated Firms and Liabilities owed and liabilities owed to Associated Firms), as reasonably determined by MSIP.

**26.17 TRANSFER OF ASSETS.** You transfer (or your Credit Support Provider transfers) all or substantially all of your (or your Credit Support Provider's) assets to another person.

**26.18 ABILITY TO PERFORM OBLIGATIONS ADVERSELY AFFECTED.** Any action is taken or any event occurs which Morgan Stanley consider might have a material adverse effect upon your (or your Credit Support Provider's) ability to perform any of your (or your Credit Support Provider's) obligations under the Customer Agreement or any other transaction or agreement between you (or your Credit Support Provider) and MSIP, or might render it necessary or desirable for MSIP's own protection to declare that an Event of Default has occurred.

**26.19 PARTNERSHIPS.** Where you are (or your Credit Support Provider is) a partnership, an Act of Insolvency or an Event of Default occurs in respect of one or more of your or its partners.

**26.20 HONG KONG TRUSTS.** In respect of a Hong Kong Trust, the commencement of any action under Order 85 of the Rules of the High Court of Hong Kong or any analogous proceeding.

## **27. THIRD PARTY SERVICE PROVIDERS AND THIRD PARTY REFERRALS**

Morgan Stanley may from time to time refer to you the services of third party service providers (each a "Service Provider"). If you wish to engage the services of any Service Provider, you understand that you may be required to enter into directly with the Service Provider such documentation as the Service Provider requires.

**27.1** You acknowledge that your relationship with the Service Provider is separate and independent from any relationship you may have with Morgan Stanley. In particular, Morgan Stanley shall not be liable to you for the solvency, acts or omissions of any Service Provider or any loss to you resulting from the services provided by such Service Providers.

**27.2** You acknowledge that Morgan Stanley is entitled to retain any payment, remuneration, profit or benefit which arises in relation to or as a result of Morgan Stanley recommending a Service Provider to you.

**27.3** If you have been referred to Morgan Stanley by a Referring Party you acknowledge that your relationship with the Referring Party is separate and independent from any relationship you may have with Morgan Stanley. In particular, Morgan Stanley shall not be liable to you for the solvency, acts or omissions of the Referring Party or any loss to you resulting from your relationship with the Referring Party.

**27.4** You acknowledge that Morgan Stanley may make a payment to, share revenues with or make any other financial arrangement with the Referring Party as a result of referring new business to Morgan Stanley.

## **28. NOTICES AND COMMUNICATION**

**28.1 FORM OF NOTICES OR INSTRUCTIONS.** Notices or Instructions may be given orally unless Morgan Stanley reasonably requires such Notices or Instructions to be in writing or they are required to be in writing by the Customer Agreement or by the Applicable Regulations.

**28.2 COMMUNICATIONS.** Morgan Stanley may also communicate to you in writing by post, facsimile, SMS and electronic media (including the internet and electronic mail). Notwithstanding your request for Morgan Stanley to communicate with you through any specific means of communication, Morgan Stanley is not obliged to do so and may, in its sole and absolute discretion, choose to communicate with you using any contact details for any means of communication provided by you and appearing in its records. In the case of electronic mail, Morgan Stanley may communicate to you to any of the email addresses provided by you and appearing in Morgan Stanley's records. Morgan Stanley does not accept responsibility for any SMS being, or guarantee content in SMS messages to be, accurate, timely, secure, error or virus-free. Additional information and disclaimers regarding the use of SMS as a means of communicating with you are set out in Appendix IV (*Supplemental Provisions relating to Electronic Communications and Communications via SMS*).

Unless Morgan Stanley otherwise specifies, you may communicate to Morgan Stanley orally or in writing by post, facsimile, SMS and electronic media (including the internet and electronic mail). However, without prejudice to Clause 4.2 (*Electronic Orders and Fund Transfers*), Instructions relating to the placement of orders for Investments or the transfer of cash or assets may not be sent by SMS or electronic media (including the internet and electronic mail) and must conform with other reasonable requirements as MSWM might specify from time to time unless MSWM specifically agrees otherwise in writing.

**28.3 METHOD OF TRANSMISSION.** Subject to Appendix IV (*Supplemental Provisions relating to Electronic Communications and Communications via SMS*), any Notice or Instruction or Account Statement or contract note or any marketing materials may be delivered as follows:

**28.3.1** By posting it (first class or, where appropriate, by air mail), in which case it will be deemed delivered five Local Business Days after posting. Proof that the letter was correctly addressed and was

posted first class, or where appropriate air mail will be sufficient proof of delivery.

**28.3.2** By delivering it in person or by courier, in which case it will be deemed delivered on the date of delivery (if delivery is made before 6:00pm on a Local Business Day in the place of delivery) or at 9:00am on the next Local Business Day following the date of delivery (if delivery is made after 6:00pm or on a date which is not a Local Business Day in the place of delivery). Proof that it was delivered to the correct address will be sufficient proof of delivery.

**28.3.3** By sending it by facsimile transmission or any other electronic transmission (including internet and electronic mail). Proof that it was transmitted to the correct number or destination will be sufficient proof of delivery, in which case it will be deemed delivered on the date of transmission (if transmission is made before 6:00pm on a Local Business Day in the place of receipt) or at 9:00am on the next Local Business Day following the date of transmission (if transmission is made after 6:00pm or on a date which is not a Local Business Day in the place of receipt).

**28.4 CASES WHERE ACTUAL RECEIPT REQUIRED.** Communications from you under Clauses 33.3 (*Amendment or Assignment by You*) and 34 (*Assignment*), 35 (Termination) and any objection pursuant to Clauses 28.5 (*Conclusiveness*) and 33.2 (*Amendment by Morgan Stanley*) will be deemed received only if actually received by Morgan Stanley.

**28.5 CONCLUSIVENESS.** Any contract note, confirmation or account statement which Morgan Stanley gives you in writing will, in the absence of manifest error, be deemed correct, conclusive and binding on you if not objected to in writing within five Local Business Days (or such longer period as may be prescribed by Applicable Regulations or as you and Morgan Stanley may agree either generally or specifically in relation to any particular Transaction) of receipt by you.

**28.6 CONTACT DETAILS.** Your postal and email addresses, telephone numbers (including mobile telephone number) and facsimile details are as set out in the Account Application Form or as otherwise provided to MSWM by you. Morgan Stanley will treat such contact details on its records as up to date unless you notify MSWM in writing to the contrary in accordance with this Clause 28.

**28.7 INFORMATION ABOUT TRANSMISSIONS THROUGH THE INTERNET, ELECTRONIC MAIL OR SMS.** To the extent that the internet, electronic mail or SMS is used as a medium to communicate with you, or to transmit data or documentation from Morgan Stanley to you, whether pursuant to this Clause 28 or Appendix IV (*Supplemental Provisions relating to Electronic Communications and Communications via SMS*):

**28.7.1** You acknowledge that transmissions over the internet, electronic mail or SMS may be subject to interruption, transmission blackout, delayed transmission or incorrect data transmission, and that due to such disruptions

(i) you may from time to time be unable to access documents or electronic messages Morgan Stanley has sent or made available to you through the internet or SMS; and

(ii) you may not be able to respond in a timely manner to any Notice. In particular, you may be unable to object or make any claims in respect of errors or inaccuracies in such Notice within any time limit that might be specified.

**28.7.2** You acknowledge that there are security concerns with electronic banking services, including, without limitation, the internet and electronic communications (such as electronic mail and SMS). Morgan Stanley may from time to time communicate security advice to you (by electronic mail or by publication on one of its websites) with respect to the same and you agree to refer to and consider such advice as appropriate.

**28.7.4** You acknowledge that the privacy of communications, data and documents transmitted or displayed via the internet, electronic mail or SMS cannot be guaranteed.

**28.7.5** You acknowledge and agree that:

(i) you have regular and frequent access to the internet or SMS services,

(ii) you will not rely on Morgan Stanley to prompt you to check data or documentation transmitted to you through the internet or SMS and

(iii) you will inform Morgan Stanley promptly in writing of any changes to your email address or mobile telephone number (to the extent this is indicated on the Account Application Form or otherwise provided to Morgan Stanley in writing).

**28.7.6** You confirm that you will not hold Morgan Stanley liable, whether in contract, tort (including negligence) or otherwise for any Losses that you may suffer directly or indirectly and which arise as a result of Morgan Stanley and you transmitting data or documentation to each other through the internet, electronic mail, SMS or other electronic media including any losses arising from breaches of security caused by third parties.

**28.7.7** Without prejudice to Clause 12 (*Indemnification*), you (and your personal representatives) will fully indemnify each Indemnified Person against all claims, reasonable costs and expenses (including legal fees), damages, liabilities and losses which any Indemnified Person may suffer or incur directly or indirectly as a result of, or in connection with, or arising out of Morgan Stanley's use of the internet, electronic mail or SMS as a medium to communicate with you, or to transmit data or documentation from Morgan Stanley to you, or in connection with any claim, action, proceeding or investigation arising out of or in connection with such medium of communication (including all costs of enforcement). This indemnity will not extend to any Indemnified Person to the extent that such costs, expenses, damages, liabilities and losses result primarily from the bad faith, wilful default, fraud, negligence of, or breach by, that Indemnified Person.

## **28.8 RIGHT OF REVOCATION**

**28.8.1** You may revoke your consent to transmission of Notices (other than margin call notices), including those provided in Appendix IV (*Supplemental Provisions relating to Electronic Communications and Communications via SMS*), through the internet at any time by notifying Morgan Stanley in writing that you do not wish to receive copies of Notices through the internet. However, any revocation of your consent to transmission of Notices through the internet will not imply that any previous transmission was not good and effective delivery.

**28.8.2** You may revoke your consent to transmission of information regarding your Account or any marketing materials or other communication with you via SMS at any time by notifying Morgan Stanley in writing (or through other means as set out

in Appendix IV (*Supplemental Provisions relating to Electronic Communications and Communications via SMS*)) that you do not wish to receive such communication via SMS.

**28.9 CHANGE OF CONTACT DETAILS.** It is your responsibility to notify Morgan Stanley immediately in writing of any change in your postal delivery address, email, telephone numbers (including mobile telephone number) or other contact details. Notices will be delivered according to the contact details showing from time to time in Morgan Stanley's records which will prevail and be considered valid and subsisting, unless Morgan Stanley receives notice in writing to the contrary.

## 29. PORTFOLIO RECONCILIATION

You acknowledge that MSIP is required to reconcile portfolios for Relevant Transactions pursuant to the Portfolio Reconciliation Risk Mitigation Techniques. Consequently:

**29.1** On each Data Delivery Date, MSIP will provide Portfolio Data to you;

**29.2** On or before each PR Due Date, you will perform a comparison of the Portfolio Data provided by MSIP against your own books and records of all outstanding Relevant Transactions between MSIP and you in order to identify promptly any discrepancies in Key Terms;

**29.3** If you identify one or more discrepancies which you determine, acting reasonably and in good faith, are material to MSIP's rights and obligations in respect of one or more outstanding Relevant Transactions, you will notify your MSWM financial adviser, or the branch manager of the MSWM branch at which your MSWM financial adviser works, in writing as soon as reasonably practicable and MSWM will consult with MSIP in an attempt to resolve such discrepancies in a timely manner for so long as such discrepancies remain outstanding, using, without limitation, any applicable updated data produced during the period in which such discrepancy remains outstanding; and

**29.4** If you do not notify MSWM that the Portfolio Data contains discrepancies by 4 p.m. London time on the fifth Joint Business Day, following the later of the PR Due Date and the date on which MSWM provided such data to you, you will be deemed to have affirmed such Portfolio Data.

## 30. COMMUNICATION RECORDING AND RECORDS

For quality control and security purposes, as a record of your orders/Instructions and related matters and in order to comply (and monitor compliance) with Applicable Regulations, the Customer Agreement and internal policies, Morgan Stanley or the Associated Firms and/or other persons on Morgan Stanley or their behalf may monitor and record communications (including email, SMS, instant messaging, facsimile, telephone and other electronic communications) with you or your Agent(s).

Morgan Stanley's records shall be prima facie evidence of the orders/Instructions or other communications so monitored or recorded, and you agree that such records shall be admissible as such evidence in any Proceedings. You will not object to the admission of Morgan Stanley's records as evidence in any Proceedings because such records are not originals, are not in writing or are documents produced by a computer. You will not rely on Morgan Stanley to comply with your monitoring or record keeping obligations, although records may be made available to you on request at its

absolute discretion. Morgan Stanley may retain such records in accordance with Morgan Stanley's operational procedures which may change from time to time at Morgan Stanley's absolute discretion. You agree to keep adequate records in accordance with Applicable Regulations to demonstrate the nature of orders/Instructions or communications submitted and the time at which they are submitted.

## 31. PARTIAL INVALIDITY

To the extent that any provision of the Customer Agreement is void, voidable or unenforceable, that fact will not affect the operation of any other provisions of the Customer Agreement.

## 32. NO WAIVER

No failure by Morgan Stanley or an Associated Firm to require strict and/or prompt compliance with the provisions of the Customer Agreement shall operate as a waiver of Morgan Stanley's rights under the relevant provision or any other provision. Any waiver by Morgan Stanley of its rights under the Customer Agreement must be in writing signed by Morgan Stanley to be effective.

## 33. ENTIRE AGREEMENT/BINDING EFFECT/AMENDMENT

**33.1 ENTIRE AGREEMENT.** This Customer Agreement represents the entire terms on which Morgan Stanley shall undertake for or with you the Services which are covered by this Customer Agreement and supersedes all previous agreements between the parties relating to the Services. You acknowledge that in entering into this Customer Agreement you have not relied on any representation, warranty, collateral contract or other assurance (except those set out in the Customer Agreement) made before signature. You waive all rights and remedies which might otherwise be available to you in respect of any representation, warranty, undertaking or other assurance, provided that nothing limits or excludes liability for fraud.

If the terms of a Module or a Supplement conflict with any other terms of the Customer Agreement, the terms of the Module or Supplement shall prevail. If the terms of a Module conflict with the terms of a Supplement, the terms of the Module shall prevail.

**33.2 AMENDMENT BY MORGAN STANLEY.** Morgan Stanley may amend or supplement this Customer Agreement by sending you a further Customer Agreement (or relevant parts thereof), by notifying you in writing of amendments or supplements to the Customer Agreement or by written agreement with you. Morgan Stanley may add an Associated Firm as a party to a Customer Agreement with you by sending you a further Customer Agreement (or relevant parts thereof), by notifying you in writing of same, or by written agreement with you. An amendment or supplement made to reflect a change of Applicable Regulations may take effect immediately or otherwise as Morgan Stanley may specify. Any other amendment or supplement will, unless Morgan Stanley has received your written objection, only take effect on the date Morgan Stanley reasonably specifies, except that Morgan Stanley will use reasonable endeavours to provide you with 30 days' advance notice (in respect of an amendment or variation which affects your liabilities or obligations under the Customer Agreement unless you agree to a shorter notice period). All such amendments or variations shall apply to Services delivered after that time.

**33.3 AMENDMENT OR ASSIGNMENT BY YOU.** You may notify Morgan Stanley in writing from time to time of any changes in your investment objectives or to the investment restrictions and



permitted Investments set out in the Customer Agreement. Any other alteration you may wish to make to the Customer Agreement must be agreed in advance by Morgan Stanley in writing. You may not assign any of your rights under the Customer Agreement or any Transaction without Morgan Stanley's prior written consent. Your obligations may not, without Morgan Stanley's prior written consent, be performed by anybody else.

### 34. ASSIGNMENT

**34.1 SUCCESSORS AND ASSIGNS.** The obligations under the Customer Agreement bind, and the rights will be enforceable by, you and Morgan Stanley and Morgan Stanley's respective successors, permitted assigns and personal representatives.

**34.2 NOVATION.** Morgan Stanley may at any time cause all or any part of Morgan Stanley's rights, benefits and/or obligations under this Customer Agreement to be transferred to any Associated Firm by delivering to you a written substitution notice with an amended or supplemented Customer Agreement.

### 35. TERMINATION

**35.1 POWER TO TERMINATE.** Except in relation to those parts of the Customer Agreement which specifically provide for termination, any party can terminate the Customer Agreement without penalty by giving Notice in writing in accordance with Clause 28 (*Notices and Communication*). Any party may also terminate a Module, without necessarily terminating the Customer Agreement as a whole, by giving Notice in writing. Termination will take effect immediately or after any period specified in the Notice. Notwithstanding Clause 28 (*Notices and Communication*), any notice of termination by you must also include a notice by electronic mail to IWM\_Notices@morganstanley.com

**35.2 WHOLESALE CLIENT STATUS.** Should you cease to be a Wholesale Client, MSIP will no longer be able to provide Services to you and Morgan Stanley may terminate the Customer Agreement immediately by giving notice in writing to you. In the event Morgan Stanley does so, you will need to sell your Investments or transfer them to another custodian or holder. If Morgan Stanley does not receive your instructions within 60 days of termination, or if Morgan Stanley is unable to transfer the holdings as instructed within 60 days, you will be deemed to have instructed MSWM to sell your Investments and transfer the proceeds to you (including, if necessary, by first converting them into the currency of the bank account into which the proceeds will be paid). Morgan Stanley will not be liable for any losses you incur as a result of any such sales or transfers.

**35.3 INDIVIDUALS.** If you are an individual, the authority conferred on Morgan Stanley by the Customer Agreement is given by you on behalf of yourself and your personal representatives with the intent that it will continue for all purposes until terminated by Morgan Stanley or by you or any of them as the case may be. Morgan Stanley may (but is not bound to) act on the directions of your personal representatives on production of whatever evidence as to status, and on completion of whatever formalities, Morgan Stanley may in Morgan Stanley's absolute discretion require. Upon receiving notice of your death, Morgan Stanley may, in its absolute discretion, terminate the Customer Agreement and if Morgan Stanley does so, until Morgan Stanley receives directions from your personal representatives, MSIP will continue to hold your assets and money

in accordance with the Customer Agreement. Upon receiving notice of your death, Morgan Stanley may also, in its absolute discretion, take such actions as Morgan Stanley in good faith considers necessary or desirable to protect your interests, and those of your estate, in the assets in the Account. In taking such actions Morgan Stanley will not be acting as a fiduciary for you or your estate. You and your estate agree to indemnify Morgan Stanley and hold Morgan Stanley harmless from, and pay Morgan Stanley promptly on demand, any and all losses, costs, expenses, damages and liabilities whatsoever (including consequential and special damage) arising directly or indirectly in relation to any such actions taken by Morgan Stanley in good faith.

**35.4 EFFECT OF TERMINATION.** Termination of the Customer Agreement or a Module (as the case may be) will not affect outstanding rights or actual, future or contingent liabilities. The Customer Agreement or the relevant Module (as the case may be) will apply to these liabilities until all Transactions have been closed out or settled or delivery has been effected and all liabilities finally discharged.

**35.5 SURVIVAL.** Termination will not affect any provision of the Customer Agreement which is intended to survive termination.

### 36. JOINT ACCOUNTS

Where you are more than one person:

**36.1** any Notices given by Morgan Stanley to any one of you will be deemed to be given to all of you;

**36.2** Notices may be given to Morgan Stanley by any one of you and Morgan Stanley will be entitled to treat those Notices as being given by all of you (unless you request in writing and Morgan Stanley approve);

**36.3** unless you give Instructions to the contrary, each joint Account holder will be authorised to sign individually on behalf of all joint Account holders and to give Instructions in respect of any Investment, Transaction and/or Account and Morgan Stanley are hereby authorised to accept and execute such Instructions;

**36.4** your liabilities under the Customer Agreement will be joint and several;

**36.5** subject to the receipt by Morgan Stanley of written notice to the contrary, on the death of any one of you, Morgan Stanley will be entitled to treat the survivor of you as the only person or persons bound by or entitled under the Customer Agreement;

**36.6** subject to the receipt by Morgan Stanley of written notice to the contrary, on the death of the last survivor of you, the Customer Agreement shall apply as if the last survivor were a sole individual bound by and entitled to the benefit of the Customer Agreement; and

**36.7** the credit balance in your joint Account may be set off against the debit balance in other accounts held by any one of you.

### 37. THIRD PARTY RIGHTS

**37.1** Subject to this Clause 37, a person who is not a party to the Customer Agreement has no right under the Contract (Rights of Third Parties) Act 1999 of the UK (for the purposes of this Clause 37, the "Act") to enforce any term of the Customer Agreement (but this shall not affect any right of any person which exists or is available apart from the Act).

**37.2** Without prejudice to any rights that the Indemnified Persons and the Morgan Stanley have as parties to the Customer Agreement

or otherwise, the Indemnified Persons and/or Morgan Stanley may enforce the terms of the Customer Agreement in accordance with the terms and the provisions of the Act.

**37.3** The parties do not require the consent of any third party to rescind or vary the Customer Agreement.

### 38. TIME OF THE ESSENCE

It is a fundamental term of the relationship under the Customer Agreement that obligations will be performed on time. If they are not, then remedies may be pursued immediately without the need to serve any notice requiring performance (unless notice is required by the terms of the Customer Agreement).

### 39. GOVERNING LAW, ARBITRATION, WAIVER OF IMMUNITY AND SERVICE OF PROCESS

**39.1 GOVERNING LAW.** Any Transaction which is subject to the Applicable Regulations in respect of an Exchange will be governed by the law applicable to those Applicable Regulations. Subject thereto, the Customer Agreement (including, without limitation, its Annex I (*Security Provisions*)) and any Transaction entered into under it and any contractual or non-contractual obligation arising out of or in connection with the Customer Agreement or any Transaction entered into under it shall be governed by, and interpreted in accordance with, English law.

#### 39.2 DISPUTE RESOLUTION

**39.2.1** If you are domiciled in either the United Kingdom, a Hague Convention State, 1920 Act Country, 1933 Act Country or the United States of America, Clause 39.2.2 shall apply. If you are domiciled in any other country or territory, Clause 39.2.3 shall apply.

**39.2.2** Subject to Clause 39.2.1 above, each party irrevocably agrees that the English courts shall have exclusive jurisdiction in relation to all disputes (including claims for set-off and counterclaims) arising out of or in connection with the Customer Agreement or the Transactions entered into under it including, without limitation, disputes arising out of or in connection with:

(i) the creation, validity, effect, interpretation, performance or non-performance of, the termination or the legal relationships established by, the Customer Agreement or the Transactions entered into under it; and

(ii) any non-contractual obligations arising out of or in connection with the Customer Agreement or the Transactions entered into under it. For such purposes each party irrevocably submits to the jurisdiction of the English courts and waives any objection to the exercise of such jurisdiction. Each party also irrevocably waives any objection to the recognition or enforcement in the courts of any other country of a judgment delivered by an English court exercising jurisdiction pursuant to this Clause 39.2.

**39.2.3** Subject to Clause 39.2.1 above, any dispute, controversy or claim, whether contractual or non-contractual, arising out of or in connection with the Customer Agreement or the Transactions entered into under it (including any dispute regarding the existence, validity, interpretation, breach, or termination of the Customer Agreement) or the Transactions entered into under it shall be referred and finally resolved by arbitration as follows:

#### 39.2.4

(a) The arbitration shall be conducted under the auspices of the LCIA in accordance with the LCIA Rules which are deemed to be incorporated by reference into this Clause 39.2.

(b) The seat or legal place of the arbitration shall be London, England.

(c) The language of the arbitration shall be English.

(d) The tribunal shall consist of three arbitrators. The parties to the dispute shall each nominate an arbitrator in accordance with the LCIA Rules, provided that where there are multiple claimants or multiple respondents, the multiple claimants jointly and the multiple respondents jointly shall nominate an arbitrator. The third arbitrator who shall be the presiding arbitrator of the tribunal shall be nominated by agreement or of the two party-nominated arbitrators. If the third arbitrator is not so nominated within 30 calendar days of the date of the appointment of the later of the two party-nominated arbitrators, the third arbitrator shall be selected and appointed by the LCIA court.

(e) Judgment for the enforcement of any arbitral award may be entered in any court of competent jurisdiction.

(f) The governing law of this arbitration agreement (including its validity and scope), and any non-contractual obligations arising out of or in connection with it, shall be English law.

(g) The emergency arbitrator provisions in the LCIA Rules shall not apply.

(h) Notwithstanding any provision to the contrary in the LCIA Rules, the parties agree for the purpose of section 69(2)(a) of the Arbitration Act 1996 that each party has the right of appeal from an award of the arbitral tribunal to the courts of England and Wales on any question of law.

(i) Without prejudice to the powers and duties of the arbitral tribunal provided by the LCIA Rules, statute or otherwise, the arbitral tribunal shall have the power at any time, on a summary basis (including, if appropriate, without a hearing), to make an award in respect of any claim (including a counterclaim) or defence (including a defence to a counterclaim) which is either:

(i) manifestly unsustainable, and/or

(ii) a claim or defence on which no award could be rendered under the applicable law, even if the facts alleged in support of that claim or defence were assumed to be true. For the avoidance of doubt, this power may be exercised in respect of any issues, including issues of jurisdiction, admissibility or the merits.

**39.2.3** Insofar as Clause 39.2.3 applies pursuant to Clause 39.2 above, the parties to the Customer Agreement submit to the jurisdiction of the English court for the purpose of enforcing the agreement to arbitrate.

**39.2.4** For the purpose of this Clause 39.2 (*Dispute Resolution*) the following terms shall have the following meanings:

“**1920 Act Country**” means a country to which Part II of the Administration of Justice Act 1920 extends;

“**1933 Act Country**” means a country to which the Foreign Judgments (Reciprocal Enforcement) Act 1933 extends;

“**Hague Convention**” means the Convention of 30 June 2005 on Choice of Court Agreements;

“**Hague Convention State**” means a contracting state to the Hague Convention of 30 June 2005 on Choice of Court Agreements;

“**LCIA**” means the London Court of International Arbitration.

### 39.3 EMIR DERIVATIVE CONTRACT DISPUTES

**39.3.1** You and MSIP agree that you and MSIP will each use the following procedure to identify and resolve Relevant Transaction Disputes:

(i) you may identify a Relevant Transaction Dispute by sending a written notice to MSIP and MSIP may identify a Relevant Transaction Dispute by sending a written notice to you. You may notify your MSWM financial adviser or if you prefer not to raise the matter with him/her, you may contact the branch manager of the MSWM branch at which your MSWM financial adviser works;

(ii) on or following the date on which such dispute is notified by you or MSIP to the other, you and MSIP will both consult in good faith in an attempt to resolve the Relevant Transaction Dispute in a timely manner, including, without limitation, by exchanging any relevant information and by identifying and using any agreed process which can be applied to the subject of the Relevant Transaction Dispute or, where no such agreed process exists or you and MSIP both agree that such agreed process would be unsuitable, determining and applying a resolution method for the Relevant Transaction Dispute; and

(iii) with respect to any Relevant Transaction Dispute that is not resolved within five Joint Business Days of the date on which such dispute is notified by one party to the other, refer issues internally to appropriately senior members of staff of such party or of any affiliate, to its independent professional advisers or to its agent. For MSIP, this means referral of the dispute to a Senior Executive. This shall operate in addition to actions under sub-clause (ii) above (including actions under any agreed process identified and used under sub-clause (ii) above) and to the extent such referral has not occurred as a result of action under sub-clause (ii) above (including any agreed process).

**39.3.2** Each party agrees that, to the extent the Dispute Resolution Risk Mitigation Techniques apply to each party, it will have internal procedures and processes in place to record and monitor any dispute for as long as the Relevant Transaction Dispute remains outstanding.

**39.3.3** The EMIR Derivative Contract Disputes provisions and any action or inaction of either party in respect of it are without prejudice to any rights or obligations the parties may possess in respect of each other under any agreed process or other contractual agreement, by operation of law or otherwise. Action or inaction by a party in respect of the EMIR Derivative Contract Disputes provisions will not be presumed to operate as an exercise or waiver, in whole or part, of any right, power or privilege such party may possess in respect of the other under any agreed process or other contractual agreement, by operation of law or otherwise. In particular, but without limitation,

(a) any valuation in respect of one or more Relevant Transactions for the purposes of the EMIR Derivative Contract Disputes provisions will be without prejudice to any other valuation with respect to such Relevant Transaction(s) made for collateral, close out, dispute or any other purpose; and

(b) nothing in the EMIR Derivative Contract Disputes provisions limits the rights of the parties to commence or continue an agreed process (whether or not any action under the EMIR Derivative Contract Disputes provisions has occurred) or otherwise to pursue any dispute resolution process in respect of any such

issue or discrepancy (whether or not any action under this EMIR Derivative Contract Disputes provisions has occurred).

**39.4 WAIVER OF IMMUNITY.** Certain persons are entitled by law to certain immunities from legal process, for example on the grounds of sovereignty. This may prevent the taking of Proceedings altogether and/or may prevent the enforcement of any judgment at all or in particular ways e.g. by preventing attachment of that person's assets or those of any state (either to enforce a judgment, or before any judgment has been given or otherwise). Any immunity of that type would be inconsistent with the relationship between Morgan Stanley and you. Therefore, you irrevocably agree that, should Morgan Stanley take any Proceedings anywhere (whether for an injunction, specific performance, damages or otherwise), no such immunity may be claimed by you or on your behalf or with respect to your assets and you hereby irrevocably waive any such immunity. You irrevocably confirm that your assets are, and will be, subject to such Proceedings, attachment or execution in respect of your obligations under the Customer Agreement as are set out in them.

**39.5 RIGHTS AND REMEDIES.** The rights and remedies provided under the Customer Agreement are cumulative and not exclusive of those provided by law. Morgan Stanley shall be under no obligation to exercise any right or remedy either at all or in a manner or at a time beneficial to you. No failure by Morgan Stanley to exercise or delay by Morgan Stanley in exercising any of Morgan Stanley's rights under the Customer Agreement (including any Transaction) or otherwise shall operate as a waiver of those or any other rights or remedies. No single or partial exercise of a right or remedy shall prevent further exercise of that right or remedy or the exercise of another right or remedy.

## 40. MISCELLANEOUS

### 40.1 UNSOLICITED REAL-TIME FINANCIAL PROMOTIONS.

Morgan Stanley and/or any Associated Firm and/or their representatives or employees may communicate an unsolicited real-time communication to you without an express invitation from you such as visiting or telephoning you in such circumstances as Morgan Stanley may reasonably believe to be appropriate.

**40.2 COMPLAINTS.** Morgan Stanley is committed to a high level of client service and responding to any concerns or complaints promptly, fairly, consistently and in a professional manner.

If you have any concerns about the Services provided to you, Morgan Stanley encourages you to discuss the matter with your MSWM financial adviser or branch manager of the MSWM branch at which your MSWM financial adviser works.

If you are not satisfied with the response you receive, you can call MSWM tollfree in Australia on 1800 008 161 or outside Australia on +612 9775 2645 to provide details of your complaint to the Compliance Manager.

If you would like to provide a written complaint, please forward your written complaint to:

The Compliance Manager  
Morgan Stanley Wealth Management  
Level 26 Chifley Tower  
2 Chifley Square  
Sydney NSW 2000  
AUSTRALIA



Should you be dissatisfied with Morgan Stanley's response you may have the right to complain directly to (among others) the Financial Ombudsman Service in the UK (in respect of Services provided by MSIP) or the Australian Financial Complaints Authority in Australia (in respect of Services provided by MSWM). Further details in respect of these services, including details of how to complain, can be found at [www.financial-ombudsman.org.uk](http://www.financial-ombudsman.org.uk) (Financial Ombudsman Service in the UK) and [www.afca.org.au](http://www.afca.org.au) (Australian Financial Complaints Authority in Australia).

## 41. DEFINITIONS AND INTERPRETATION

### 41.1 DEFINITIONS

**"Account"** means the account or accounts in your name held at MSIP opened and operated in accordance with the Customer Agreement;

**"Account Application Form"** means the form completed (or to be completed) by you setting out your investment objectives and risk tolerance, investment experience and other information that Morgan Stanley requires for the operation of your Account(s) and in which you provided your consent for MSWM to supplement any information in the form with any other information it holds as provided by you that may be required to open and operate your Account;

**"Account Statements"** means the portfolio statements for your Account(s);

**"Act of Insolvency"** shall have the meaning given in Clause 26.3 (*Act of Insolvency*);

**"AFSL"** means Australian Financial Services Licence;

**"AML/CTF Act and Rules"** means collectively the Anti-Money Laundering and Counter Terrorism Financing Act 2006 (Cth) of Australia and Anti-Money Laundering and Counter Terrorism Financing Rules 2007 (No.1) (Cth) of Australia;

**"Agent"** means the persons who are authorised by you to have full and unrestricted power to give Morgan Stanley Instructions relating to Investments and any of your Account(s) for your account and risk and in your name and as notified to Morgan Stanley in accordance with Clause 5.6 (*Appointment of Agents*);

**"Applicable Regulations"** means:

- (i) FCA Rules or any other rules of a relevant regulatory authority
- (ii) the Corporations Act and any regulations made thereunder
- (iii) the rules of the relevant market, Exchange, Multilateral Trading Facility and/or Clearing House; and
- (iv) all other applicable laws, rules and regulations (including those applicable in the UK and Australia), as in force from time to time;

**"Approvals"** means all authorisations, consents or approvals, exemptions, licences, notifications and filings;

**"Approved Bank"** means a Central Bank, an EEA credit institution or a BCD credit institution or a bank authorised in a third country;

**"ASIC"** shall have the meaning given in the first paragraph under the *About Morgan Stanley Private Wealth Management*;

**"Associated Firm"** means each of Morgan Stanley's affiliates;

**"AUD"** means Australian Dollars, the lawful currency of Australia;

**"AU PA"** means the Privacy Act 1988 (Cth) of Australia;

**"Authorised MiFID Investment Firm"** means any person who is authorised by a competent authority of a Member State of the European Union to provide one or more investment services and/or perform one or more investment activities on a professional basis for the purposes of MiFID;

**"Authorised Signatories"** means the person, persons or entities authorised to give Morgan Stanley Instructions on your behalf and set out in the Certificate of Authority to Deal Supplement or equivalent document;

**"Award"** shall have the meaning given in the Rules of Arbitration of the International Chamber of Commerce;

**"BCD credit institution"** shall have the meaning given in the FCA Rules;

**"BHCA Affiliate"** has the same meaning as the term "affiliate" as defined in, and shall be interpreted in accordance with 12 USC 1841(k);

**"Certificate of Authority to Deal Supplement"** shall have the meaning given in the paragraph headed General Dealing Terms in the Introduction;

**"Clearing House"** means any clearing house providing settlement, clearing or similar services whether or not as part of an Exchange;

**"Clearing Status Notice"** means a notice in writing from you to Morgan Stanley specifying that, in respect of you, sub-clause 2.12.2 of the EMIR NFC Representation is disapplied and will not form part of the representation;

**"Client Money"** shall have the meaning given in the Client Money Rules;

**"Client Money Rules"** means the Client Money Rules as defined in the FCA Rules;

**"Close-Out Loss"** means:

- (i) with respect to one or more terminated Transactions governed by an agreement the terms of which provide for the calculation of an amount payable upon the termination of such Transactions, that amount; and
- (ii) with respect to one or more terminated Transactions (other than Exchange Traded Derivative Transactions or Transactions referred to in sub-paragraph (i) above), the amount which MSIP reasonably determines in good faith to be MSIP's total overall net losses and costs (or gain, in which case expressed as a negative number) in connection with that terminated Transaction or group of terminated Transactions, including at MSIP's election any loss of bargain, cost of funding or loss or cost incurred as a result of terminating, liquidating, obtaining or re-establishing any hedge or related trading position (or any gain resulting from any of them);

**"Close-Out Notice"** shall have the meaning given in Clause 24.1 (*Early Termination*);

**"Competition Market Integrity Rules"** means the ASIC Market Integrity Rules (Competition in Exchange Markets) 2011;

**"Conduct of Business Sourcebook"** means the FCA's Conduct of Business Sourcebook (COBS);

**"Corporate Action"** includes any conversion, subscription rights, subdivision, consolidation, redemption, merger, rights relating to takeovers or other offers or capital re-organisation, capitalisation issue, rights issue, redenomination, renomination or other event

similar to the foregoing, but shall not include any voting rights that are exercisable, whether in connection with the foregoing, or otherwise;

**“Corporations Act”** means the Corporations Act 2001 (Cth) of Australia;

**“Covered Affiliate Credit Enhancement”** means a Credit Enhancement provided by a Covered Entity that is a BHCA Affiliate of a Direct Party;

**“Covered Affiliate Support Provider”** means an obligor on any Covered Affiliate Credit Enhancement, provided that it is not a Transferee;

**“Covered Agreement”** means:

(a) any Direct QFC (including all QFCs thereunder) that is entered into (or deemed entered into) between a Covered Entity and you from time to time; or

(b) any Credit Enhancement that is entered into (or deemed entered into) between a Covered Entity and you, or provided by one to the other in respect of a QFC (including without limitation any Covered Affiliate Credit Enhancement) from time to time;

**“Covered Entity”** means any Morgan Stanley Associated Firm and any BHCA Affiliate of an Associated Firm that is a party to any Covered Agreement;

**“Credit Enhancement”** means any credit enhancement or credit support arrangement in support of the obligation of Covered Entity or you under or with respect to a QFC, including any guarantee, collateral arrangement (including any pledge, charge, mortgage or other security interest in collateral or title transfer arrangement), trust or similar arrangement, letter of credit, transfer of margin, reimbursement obligation or any similar arrangement;

**“Credit Facility”** means the aggregate amount of credit from time to time extended to you pursuant to the terms of the Credit Module;

**“Credit Support Document”** means any guarantee, hypothecation agreement, margin or security agreement or document, or any other document containing an obligation of a third party, or of you, in favour of Morgan Stanley supporting any of your obligations under the Customer Agreement, including the Cross Guarantee Module and the Letter of Designation;

**“Credit Support Provider”** means any third party which has entered into a Credit Support Document, including any guarantor designated in a Letter of Designation;

**“Custody Assets”** shall have the meaning given in Clause 18.1 (*Custody Assets*);

**“Customer Agreement”** is comprised of the General Dealing Terms (including all applicable Modules and Supplements), the Account Application Form, the Signature Page, Credit Support Documents, and any ancillary documentation;

**“Data Delivery Date”** means each date on which Morgan Stanley sends Portfolio Data to you. The Data Delivery Date with respect to Portfolio Data relevant to a given PR Due Date will be no later than the Joint Business Day immediately prior to such PR Due Date;

**“Default Right”** means, with respect to a Covered Agreement, any:

(a) right of a party, whether contractual or otherwise (including, without limitation, rights incorporated by reference to any other contract, agreement, or document and rights afforded by statute, civil

code, regulation and common law), to liquidate, terminate, cancel, rescind or accelerate such agreement or transactions thereunder, set off or net amounts owing in respect thereto (except rights related to same-day payment netting), exercise remedies in respect of collateral or other credit support or property related thereto (including the purchase and sale of property), demand payment or delivery thereunder or in respect thereof (other than a right or operation of a contractual provision arising solely from a change in the value of collateral or margin or a change in the amount of an economic exposure), suspend, delay, or defer payment or performance thereunder, or modify the obligations of a party thereunder, or any similar rights; and

(b) right or contractual provision that alters the amount of collateral or margin that must be provided with respect to an exposure thereunder, including by altering any initial amount, threshold amount, variation margin, minimum transfer amount, the margin value of collateral, or any similar amount, that entitles a party to demand the return of any collateral or margin transferred by it to the other party or a custodian or that modifies a transferee's right to reuse collateral or margin (if such right previously existed), or any similar rights, in each case, other than a right or operation of a contractual provision arising solely from a change in the value of collateral or margin or a change in the amount of an economic exposure;

provided that, as used in Clause 2.22.2(a), the term “Default Right” does not include any right under a contract that allows a party to terminate the contract on demand or at its option at a specified time, or from time to time, without the need to show cause. References to the “exercise” of a Default Right or the entitlement “to exercise” a Default Right shall include the automatic or deemed exercise of a Default Right.

**“Designated Customer Agreement”** shall have the meaning given in Clause 24.2 (*Close-Out Notice*);

**“Direct Party”** means a Covered Entity that is a party to a Direct QFC;

**“Direct QFC”** means a QFC that is not a Credit Enhancement. For a QFC that is a master agreement that includes a Covered Affiliate Credit Enhancement as a supplement to the master agreement, the Direct QFC does not include such Covered Affiliate Credit Enhancement;

**“Dispute Resolution Risk Mitigation Techniques”** means the dispute resolution risk mitigation techniques for OTC derivative transactions set out in Article 11(1)(b) of EMIR as supplemented by Article 15 of Chapter VIII of the Commission Delegated Regulation (EU) No 149/2013 of 19 December 2012 and published on 23 February 2013 in the Official Journal of the European Union as it forms part of retained European Union law as defined in the European Union (Withdrawal) Act 2018 (as that Act is amended from time to time);

**“DVP Account”** means an Account maintained on a delivery-versus-payment basis;

**“Early Termination Date”** shall have the meaning given in Clause 24.4 (*Amounts Determined*);

**“EEA”** means the European Economic Area;

**“Electronic Order”** means an order given by facsimile, e-mail or other electronic media;

“**EMIR**” means Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories dated 4 July 2012 (as amended from time to time) as it forms part of retained European Union law as defined in the European Union (Withdrawal) Act 2018 (as that Act is amended from time to time) and as further amended from time to time;

“**EMIR NFC Representation**” means the representation set out in Clause 2.14 (*EMIR NFC Representation*).

“**ERISA**” shall have the meaning given to it in Clause 2.18 (*Non-ERISA Representation*);

“**ERISA Plan**” shall have the meaning given to it in Clause 2.18 (*Non-ERISA Representation*);

“**EUR**” means the Euro, the currency introduced at the start of the third stage of European Economic and Monetary Union, and as defined in Article 2 of Council Regulation (EC) No 974/98 of 3 May 1998 on the introduction of the euro, as amended;

“**Event of Default**” shall have the meaning given in Clause 26 (*Events of Default*);

“**Exchange**” means any exchange which is a Regulated Market, Multilateral Trading Facility or which is recognised or designated for the purposes of the Applicable Regulations, or any other exchange on which Transactions are entered into on your behalf;

“**Exchange Traded Derivative Transaction**” means a Transaction entered into under the terms of the Exchange Traded Derivatives Module;

“**External Account**” means an account maintained by you in your name and on your behalf at an External Custodian;

“**External Custodian**” means any third party bank, depository and/or custodian which provides custody services to you;

“**FCA**” means the UK Financial Conduct Authority;

“**FCA Rules**” means the FCA’s Handbook of Rules and Guidance or, if applicable, the PRA’s Handbook of Rules and Guidance;

“**FDI Act**” means the Federal Deposit Insurance Act and the regulations promulgated thereunder;

“**FDIC**” refers to the Federal Deposit Insurance Corporation;

“**Financial Instruments**” has the meaning given to it in the FCA Rules;

“**FSMA**” means the Financial Services and Markets Act 2000 of the UK;

“**FX Transaction**” means a Transaction entered into under the terms of the Foreign Exchange Transactions Module;

“**GBP**” means the British Pound, the lawful currency of the UK;

“**GEM**” means the Growth Enterprise Market of The Stock Exchange of Hong Kong Limited;

“**General Dealing Terms**” means the General Terms and all applicable Modules and Supplements;

“**General Terms**” means all provisions of these General Terms, including the Annex and each Appendix hereto, as amended and supplemented from time to time;

“**Hong Kong Securities**” means securities or futures contracts listed or traded on one of Hong Kong exchanges, or derivative contracts on such securities or futures contracts;

“**Hong Kong Regulators**” means the SFC, the Stock Exchange of Hong Kong Limited and/or the Hong Kong Futures Exchange Limited;

“**Indemnified Person**” means Morgan Stanley and each of the Associated Firms, their agents, delegates, employees, officers and directors;

“**Insolvency Official**” means a trustee, receiver, liquidator, conservator, administrator, custodian or other similar official;

“**Insolvency Proceeding**” means a receivership, insolvency, liquidation, resolution or similar proceeding;

“**Instructions**” means any instructions given by you (or any of your Authorised Signatories, Agents or attorneys duly notified to Morgan Stanley in writing in accordance with its procedures) to Morgan Stanley in respect of any Investment, Transaction and/or Account, including standing payment instructions which will remain in full force and effect until they are either withdrawn or amended by you;

“**Investment**” means any asset, right or interest including those falling within any paragraph in Part II of Schedule 2 to FSMA including shares in UK and non-UK companies, debentures, loan stock, bonds, notes, certificates of deposit and other debt instruments including government and public securities, unit trusts, mutual funds and similar schemes in the UK or elsewhere and the benefit of all contracts for differences, futures, options, spot and forward foreign exchange and/or commodities transactions, unless the context requires otherwise;

“**ISDA**” means the International Swaps & Derivatives Association (ISDA) Master Agreement (including the Schedule, Credit Support Annex, any transactions thereunder and any supplements or amendments thereto);

“**ISDA Master Agreement**” means a 2002 ISDA Master Agreement, 1992 ISDA Master Agreement (Multicurrency - Cross Border), 1992 ISDA Master Agreement (Local Currency - Single Jurisdiction), or 1987 ISDA Interest Rate and Currency Exchange Agreement, in each case as published by ISDA;

“**ISDA US Protocol**” means the ISDA 2018 US Resolution Stay Protocol, as published by the International Swaps and Derivatives Association, Inc. as of July 31, 2018;

“**Joint Business Day**” means a day on which commercial banks and foreign exchange markets settle payments and are open for business in both your location and the place of location of the office(s) that Morgan Stanley transact relevant Transactions with you from time to time, as determined by Morgan Stanley;

“**Key Terms**” means, with respect to a Relevant Transaction and a party, the position of the counterparties, the valuation of such Relevant Transaction and such other details the relevant party deems relevant from time to time. For the avoidance of doubt, “Key Terms” does not include details of the calculations or methodologies underlying any term;

“**LEI**” means a validated and issued legal entity identifier code the length and construction of which are compliant with the ISO 17442 standard and which is included in the Global LEI database maintained by the Central Operating Unit appointed by The Legal Entity Identifier Regulatory Oversight Committee;



**“Liabilities”** means all your debts, liabilities and obligations, whether present or future, actual or contingent (in each case whether alone or jointly, or jointly and severally, with another person, and whether as principal debtor, guarantor, surety or otherwise, or, where you are more than one natural person, then only debts, liabilities and obligations due, owing or incurred by all of you jointly), to Morgan Stanley or Associated Firms, plus any costs and expenses (including legal fees) incurred in enforcing or maintaining any rights, whether under the Customer Agreement or in relation to any Transaction, transaction, agreement or otherwise including, without limitation:

- (i) amounts of principal, interest and other moneys owing under any loans and Credit Facilities made to you;
- (ii) any debit balance on any one or more Accounts (including debit balances arising from a failure to settle any Transaction);
- (iii) any amount(s) owing under the ISDA and any other documentation, Transaction, transaction or agreement entered into between you and Morgan Stanley or an Associated Firm from time to time; and
- (iv) all costs, charges and expenses incurred by Morgan Stanley or Associated Firms in perfecting or enforcing or attempting to enforce rights under the Customer Agreements;

**“Liquidation Amount”** shall have the meaning given in the Exchange Traded Derivatives Module;

**“Local Business Day”** means unless otherwise agreed between you and Morgan Stanley in writing, a day on which commercial banks and foreign exchange markets settle payments and are open for general business in the place of location of the office(s) that Morgan Stanley transact relevant Transactions with you from time to time, as determined by Morgan Stanley;

**“Loss”** means all claims, reasonable costs and expenses, damages, liabilities and losses, including legal fees and any payments made by one person to any tax authority for any taxes or duties which should have been withheld or deducted by another person and/or any interest and/or penalties related thereto;

**“Margined Transaction”** means any Exchange Traded Derivative Transaction, any FX Transaction or any Transaction to which margin requirements apply;

**“MiFID”** means the Markets in Financial Instruments Directive (Directive 2014/65/EU) (including the delegated and implementing acts adopted under it) and, as applicable, MiFID as implemented, retained, amended, extended, re-enacted or otherwise given effect in the UK;

**“Module”** means additional terms included in the General Dealing Terms relating to specific Services provided to you, as amended and supplemented from time to time;

**“Money Laundering Laws”** means Applicable Regulations governing money laundering and counter-terrorism financing including the AML/CTF Act and Rules;

**“Morgan Stanley”** means MSWM and MSIP;

**“Multilateral Trading Facility”** means a multilateral system, operated by an investment firm or a market operator, which brings together multiple third party buying and selling interests in financial instruments - in the system and in accordance with

non-discriminatory rules - in a way that results in a contract in accordance with Title II of MiFID;

**“NFC”** means a non-financial counterparty (as such term is defined in EMIR);

**“Non-Clearing Status Notice”** means a notice in writing from you to Morgan Stanley specifying that, in respect of you, sub-clause 2.12.2 of the EMIR NFC Representation is applied and will form part of the representation;

**“Non-Complex Investments”** means the financial instruments (as defined in the FCA Rules) falling within Rule 10.4.1 of the Conduct of Business Sourcebook of the FCA Rules, which are broadly:

- (a) shares admitted to trading on a Regulated Market or an equivalent third country market (that is included on a list published by the European Commission); or
- (b) money market instruments, bonds or other forms of securitized debt (excluding those bonds or securitized debt that embed a derivative); or
- (c) units in a scheme authorised under the UCITS Directive; or
- (d) other non-complex financial instruments that satisfy the specified criteria.

**“Notices”** means any notices, demands, confirmations or requests given in the form set out in Clause 28.1 (*Form of Notices or Instructions*);

**“Notice of Treatment Supplement”** shall have the meaning given in the paragraph headed “Specific documents to note” in the Introduction;

**“Offering Documents”** means the offering memorandum, prospectus, key investor information document, any supplement, research report, fact card or any other documentation, whether prepared by Morgan Stanley, an Associated Firm or a third party, relating to any financial product or instrument that is offered to you by Morgan Stanley pursuant to the Customer Agreement;

**“OLA”** means Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act and the regulations promulgated thereunder;

**“Organised Trading Facility”** means a multilateral system which is not a Regulated Market or a Multilateral Trading Facility and in which multiple third party buying and selling interests in bonds, structured finance products, emission allowances or derivatives are able to interact in the system in a way that results in a contract in accordance with Title II of the Markets in Financial Instruments Directive;

**“Partial Close-Out Early Termination Date”** shall have the meaning given in Clause 23.2 (*Amounts Determined*);

**“Partial Close-Out Notice”** shall have the meaning given in Clause 23.1 (*Partial Close-Out Notice*);

**“Penny Share”** means a readily realisable security in relation to which the bid-offer spread is 10 per cent or more of the offer price, but not:

- (a) a government and public security; or
- (b) a share in a company quoted on The Financial Times Stock Exchange 100 Index; or

(c) a security issued by a company which, at the time that the firm deals or recommends to the client to deal in the investment, has a market capitalisation of GBP100 million or more (or its equivalent in any other currency at the relevant time);

**“Personal Financial Product Advice”** shall have the meaning given to it in section 766B(3) of the Corporations Act;

**“PPSA”** means the Personal Property Securities Act 2009 (Cth) of Australia;

**“PPS Security Interest”** means a “security interest” for the purposes of the PPSA;

**“Portfolio Data”** means, in respect of a party providing or required to provide such data, the Key Terms in relation to all outstanding Relevant Transactions between the parties in a form and standard that is capable of being reconciled, with a scope and level of detail determined by Morgan Stanley;

**“Portfolio Reconciliation Risk Mitigation Techniques”** means the portfolio reconciliation risk mitigation techniques for OTC derivatives transactions set out in Article 11(1)(b) of EMIR as supplemented by Article 13 of Chapter VIII of the Commission Delegated Regulation (EU) No 149/2013 of 19 December 2012 and published on 23 February 2013 in the Official Journal of the European Union as it forms part of retained EU law as defined in the European Union (Withdrawal) Act 2018 (as that Act is amended from time to time);

**“PRA”** means the UK Prudential Regulatory Authority;

**“PRC”** means the People’s Republic of China, which for purposes of the Customer Agreement, does not include Hong Kong, Macau or Taiwan;

**“PR Due Date”** means:

(a) in respect of the PR Period starting on the PR Requirement Start Date, the last Joint Business Day in such PR Period; and, otherwise,

(b) the last Joint Business Day in the PR Period starting on the calendar day immediately following the last calendar day of the immediately preceding PR Period. If there is no Joint Business Day in a PR Period, the PR Due Date will be the first Joint Business Day following the end of the PR Period;

**“PR Period”** means, with respect to the parties:

(a) if data reconciliation is required to occur each business day, one Joint Business Day;

(b) if data reconciliation is required to occur once per week, one calendar week;

(c) if data reconciliation is required to occur once per quarter, three calendar months; or

(d) if data reconciliation is required to occur once per year, one calendar year;

**“PR Requirement Start Date”** means the first calendar day on which the data reconciliation requirements, pursuant to EMIR, apply to one or both of the parties;

**“Proceedings”** means any suit, action or other proceedings;

**“Professional Client”** means a client categorised as such by Morgan Stanley for the purposes of the FCA Rules;

**“PWM”** shall have the meaning given in the first paragraph under the Introduction;

**“QFC”** has the meaning assigned to the term “qualified financial contract” as defined in, and shall be interested in accordance with, 12 USC 5390(c)(8)(D);

**“QFC Stay Rules”** means:

(a) with respect to a Covered Entity described in 12 C.F.R. 252.82(b), the regulations that are codified at 12 C.F.R. 252.2, 252.81-8 (the “FRB Rule”);

(b) with respect to a Covered Entity described in 12 C.F.R. 382.2(b), the regulations that are codified at 12 C.F.R. 382.1-7 (the “FDIC Rule”); and

(c) with respect to a Covered Entity described in 12 C.F.R. 47.3(b), the regulations that are codified at 12 C.F.R. 47.1-8 (the “OCC Rule”).

All references in the Customer Agreement to specific provisions of the FRB Rule, the FDIC Rule, and the OCC Rule shall be construed, in respect of a Covered Entity or a Covered Agreement to which such Covered Entity is a party or provided by or to such Covered Entity, to refer to the QFC Stay Rules applicable to such Covered Entity;

**“Referring Party”** means, for the purposes of Clause 27 (*Third Party Service Providers and Third Party Referrals*) a third party who has referred you to Morgan Stanley;

**“Regulated Market”** means a multilateral system operated and/or managed by a market operator, which brings together or facilitates the bringing together of multiple third-party buying and selling interests in financial instruments – in the system and in accordance with its non-discriminatory rules – in a way that results in a contract, in respect of the financial instruments admitted to trading under its rules and/or systems, and which is authorised and functions regularly and in accordance with Title III of MiFID II;

**“Relevant Person”** means Morgan Stanley and each of the Associated Firms, their agents, delegates, employees, officers and directors;

**“Relevant Transaction”** means any OTC derivative transaction which is subject to the Portfolio Reconciliation Risk Mitigation Techniques and/or the Dispute Resolution Risk Mitigation Techniques;

**“Relevant Transaction Dispute”** means a dispute relating to a Relevant Transaction, including but not limited to disputes relating to recognition or valuation of contracts and to the exchange of collateral of the Relevant Transactions;

**“Retail Client”** means a client categorised by Morgan Stanley as such for the purposes of the FCA Rules and, for the avoidance of doubt, does not mean a ‘retail client’ for the purposes of the Corporations Act;

**“Sanctions”** means any sanctions administered or enforced by the US Department of the Treasury’s Office of Foreign Assets Control, the United Nations Security Council, the European Union or any of its Member States, or other relevant sanctions authority;

**“SEC”** means the US Securities and Exchange Commission;

**“Security”** shall have the meaning given in Paragraph 1.2 (*Continuing Security*) of Annex A (*Security Provisions*);

“**Senior Executive**” means a duly authorised signatory of MSWM or MSIP, as applicable;

“**Senior Foreign (Non-US) Political Figure**” means a senior official in the executive, legislative, administrative, military or judicial branches of a foreign government (whether elected or not), a senior official of a major foreign political party, or a senior executive of a foreign government-owned corporation and includes any corporation, business or other entity that has been formed by, or for the benefit of, a Senior Foreign Political Figure, within the meaning of the US Department of Treasury’s Guidance on Enhanced Scrutiny for Transactions That May Involve the Proceeds of Foreign Official Corruption and as referenced in the USA PATRIOT Act of 2001;

“**Services**” means general investment and dealing services in any kind of Investment, together with related research, advice, valuation, custody, clearing, settlement and lending services as set out in the General Dealing Terms, including the specific services set out in all Modules and Supplements included in the General Dealing Terms, from time to time;

“**Service Provider**” shall have the meaning given in Clause 27 (*Third Party Service Providers and Third Party Referrals*);

“**Set-off Process**” shall have the meaning given in Paragraph 1.3 (*Preservation of Set-off*) of Annex A (*Security Provisions*);

“**SFC**” means the Securities and Futures Commission of Hong Kong;

“**SFO**” means the Securities and Futures Ordinance (Cap. 571) of Hong Kong;

“**SMS**” means Short Message Service;

“**Signature Page**” means the signature page to the Customer Agreement where you signify your agreement to the Customer Agreement;

“**Spot FX Transaction**” shall have the meaning given in the first paragraph of Appendix V (*Supplemental Provisions Relating to FX Transactions*);

“**Supplements**” means supplementary terms included in the General Dealing Terms setting out certain procedural matters, as amended and supplemented from time to time;

“**Terminated Transactions**” shall have the meaning given in Clause 24.4 (*Amounts Determined*);

“**Termination Amount**” shall have the meaning given in Clause 24.5 (*Netting*);

“**Third Party Credit Enhancement**” means with respect to you and a Covered Agreement, any Credit Enhancement that is executed or provided by one or more Third Parties (whether or not you are also a party thereto), regardless of whether or not such a document is identified as a Third Party Credit Enhancement;

“**Third Party**” means any person other than a party to the Customer Agreement;

“**Trading Venue**” means a Regulated Market, a Multilateral Trading Facility or an Organised Trading Facility;

“**Transaction**” means any transaction in respect of an Investment or any other financial instrument or product, and any loan or credit arrangements (howsoever described) entered into by Morgan Stanley with or for you under the Customer Agreement;

“**Transferee**” means, in respect of Covered Affiliate Credit Enhancement, a person to whom such Covered Affiliate Credit Enhancement is transferred upon the Covered Affiliate Support Provider entering Insolvency Proceeding or thereafter as part of the resolution, restructuring or reorganization involving such Covered Affiliate Support Provider;

“**UK**” means the United Kingdom;

“**US**” means the United States of America;

“**USD**” means United States Dollars, the lawful currency of the US;

“**US Person**” has the meaning given to it in Regulation S under the US Securities Act of 1933 and the US Internal Revenue Code of 1986;

“**Wholesale Client**” has the meaning given in the Corporations Act;

“**Your Information**” means the information relating to you, your Account, Investments or Transactions and/or Morgan Stanley’s relationship with you that Morgan Stanley may collect, hold, store, disclose, process and transfer in accordance with the Customer Agreement.

## 41.2 INTERPRETATION

**41.2.1** Clause, paragraph, annex, and appendix headings are inserted for convenience only and shall not affect the interpretation of the Customer Agreement.

**41.2.2** A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person’s personal representatives, successors or permitted assigns.

**41.2.3** Unless the context otherwise requires, words in the singular shall include the plural and in the plural include the singular.

**41.2.4** A reference to any party shall include that party’s personal representatives, successors and permitted assigns.

**41.2.5** A reference to a statute, statutory provision, rule or regulation is a reference to it as amended, extended or re-enacted from time to time, and shall include all subordinate legislation, rules or regulations made under that statute, statutory provision, rule or regulation.

**41.2.6** A reference to the Customer Agreement, a Module, a Supplement or any agreement or instrument is a reference to it as amended, novated, supplanted or restated as permitted by the Customer Agreement.

**41.2.7** A reference to a governmental or regulatory authority, an Exchange or Clearing House shall refer to any successor entity.

**41.2.8** Any obligation on a party not to do something includes an obligation to not to agree or allow that thing to be done.

**41.2.9** Any words following the terms **including**, **include**, **in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.



## Annex A

## Security Provisions

This Annex to the General Terms forms part of and is supplemental to the Customer Agreement and is entered into between you and MSIP (in its capacity as trustee for itself and MSWM). This Annex is applicable to all clients.

Any capitalised terms used and not defined in this Annex shall have the meaning given in Clause 40 (Definitions) of the General Terms.

### 1. SECURITY

#### 1.1 DEFINITIONS

“**Cash**” means all cash and sums of money from time to time standing to the credit of any Account or any account established by MSIP for your benefit with any Approved Bank pursuant to Applicable Regulations, and includes all Client Money.

“**Equivalent Assets**” shall have the meaning given in Clause 2.6 (*Power to Return Equivalent Fungible Assets*) of this Annex.

“**Other Secured Assets**” means each of the following:

(a) Each Account and all Investments and other assets from time to time deposited in or credited to that Account;

(b) The benefit of any Account and any rights against any banker, custodian or other person on whose books that Account exists, to which any Investments and other assets are from time to time credited;

(c) All other Investments and assets which (or the certificates or documents of title to which) are held by MSIP;

(d) All of your right, title and interest in and to all Investments and other assets which are from time to time held by, to the order, for the account of or under the control or direction of MSIP or which are from time to time held by any securities custody or clearing system (or any depository therefor) on behalf of, for the account of or to the order of MSIP; and

(e) All sums of money held by any Associated Firm, the benefit of all accounts in which any such money may from time to time be held and all your right, title and interest under any trust (arising by agreement or otherwise) relating to that money or to those accounts.

“**Secured Assets**” means Cash and/or Other Secured Assets that are the subject of the Security.

“**Security**” means the security interest created under Clause 1.2 of this Annex.

**1.2 FIXED CHARGE.** As continuing security for the payment, performance and discharge of all Liabilities you hereby charge by way of first fixed charge with full title guarantee or, if you are a trustee, with limited title guarantee, free of any adverse interest whatsoever to MSIP (as trustee for itself and MSWM):

**1.2.1** the Other Secured Assets; and

**1.2.2** all your rights, title and interest, present and future, in and to Cash.

**1.3 PRESERVATION OF SET-OFF.** Nothing in this Clause 1 shall operate to prejudice any right or process of set-off (including without limitation any right of set-off under Clause 25.4 (*Set-off*) of the General Terms, any mandatory insolvency set-off and any analogous right of application (each a “Set-off Process”) which MSIP or MSWM may from time to time enjoy or to which it may from time to time be subject.

## 2. SUPPLEMENTAL PROVISIONS RELATING TO SECURITY

**2.1 CONTINUING SECURITY.** The Security will remain in full force and effect as continuing security until released or discharged by MSIP in full, and will not be affected in any way by any settlement of account (whether or not any Liabilities remain outstanding thereafter), any enforcement in part of the Security or other matter or thing whatsoever and will be in addition to any other security, guarantee or indemnity now or in the future held by Morgan Stanley or an Associated Firm in respect of the Liabilities.

**2.2 ACTION AFFECTING THE SECURITY.** MSIP may at any time and without reference to you give up, deal with, vary, exchange or abstain from perfecting or enforcing any other security MSIP may at any time hold in respect of any Liabilities or discharge any party thereto, and realise the same as MSIP thinks fit without in any way affecting or prejudicing the Liabilities or the Security.

**2.3 FURTHER ASSURANCE.** For the purpose of enforcing the Security if MSIP requests at any time or times, you will promptly execute and sign all transfers, assignments, powers of attorney, further assurances or other documents and do all other acts as may reasonably be required to realise the Security (or any of it) or to vest the Secured Assets (or any of them) in MSIP or MSWM or any of their respective nominees or in a purchaser or transferee or to perfect or preserve the rights and interests of MSIP or MSWM in respect of the Security or for the exercise of any of the powers, authorities and discretions conferred on Morgan Stanley by the Customer Agreement and you hereby irrevocably appoint MSIP as your attorney for the purpose of securing the performance of the foregoing obligations and/or securing any other obligation of yours or right of Morgan Stanley's under or pursuant to the Customer Agreement. You hereby authorise and request Morgan Stanley to submit the Customer Agreement to governmental authority, companies registry or any other body in any jurisdiction(s) MSIP considers necessary or desirable to perfect, protect, enforce or realise the Security (or any of it). You undertake to instruct your registered agent or other administrator to arrange for the prompt filing of the Customer Agreement in your register of charges or other similar register, and to co-operate with Morgan Stanley in connection with such filing, if requested by Morgan Stanley.

**2.4 PURCHASER ENTITLED TO RELY ON MORGAN STANLEY.** Upon any sale or realisation of the Security, the Secured Assets or any part thereof, a written statement or, if required by law, a statutory declaration made by a Senior Executive that you are in default and that the power of sale or realisation has become exercisable will be conclusive evidence in favour of any purchaser or other person to whom any of the Secured Assets may be transferred upon such sale or realisation. You agree to indemnify Morgan Stanley against any claim or demand which may be made against Morgan Stanley by any such purchaser or person and any liability, loss, reasonable costs and expenses which Morgan Stanley or they may suffer or incur by reason of any defect in your title to any of the Secured Assets.

**2.5 NEGATIVE PLEDGE.** You will not without Morgan Stanley's prior written consent, at any time grant or agree to grant any option over, sell, assign or transfer, or agree or attempt to sell, assign or transfer, or create, agree or attempt to create, or allow to exist any charge, lien or other encumbrance on or over, any of the Secured Assets or any interest in any of them, except for the Security or as otherwise contemplated in the Customer Agreement.

**2.6 POWER TO RETURN EQUIVALENT FUNGIBLE ASSETS.** You agree that if MSIP re-transfers or re-delivers fungible assets to you, these do not need to be the identical assets originally deposited, charged or transferred to MSIP, and you will accept assets of the same class and denomination, or other assets which then represent those assets ("Equivalent Assets").

## 2.7 WITHDRAWALS

**2.7.1** You may request Morgan Stanley (in writing and either expressly or implicit within other Instructions given by you) to pay or transfer to a third party cash and/or assets from an Account. Any such request is subject to MSIP's approval and the provisions of the Security and the Customer Agreement. On any such payment or transfer being made, the relevant cash and/or assets shall be automatically released from the Security, and MSIP shall be discharged from any obligation to pay, re-deliver or re-transfer such cash and/or assets, or Equivalent Assets, to you.

**2.7.2** Making any payment or transfer of cash and/or assets from an Account, or a series of such payments or transfers, will not commit MSIP to make any other payment or transfer from any Account.

**2.7.3** Without prejudice to the foregoing provisions of this Clause 2.7 of the Annex, MSIP may in its discretion:

(a) restrict the amount, currency, value or type of cash or assets that may be paid or transferred from any Account; and/or

(b) refuse to approve a request for any payment or transfer from any Account if, for example, the payment or transfer would significantly reduce the amount or value of the Secured Assets.

**2.8 LAW OF PROPERTY ACT.** Sections 93 (restriction of right of consolidation) and 103 (restriction of right of sale) of the Law of Property Act 1925 of the UK, and any similar restrictions under the laws of other applicable jurisdictions, will not apply to the Customer Agreement and/or the Security.

**2.9 NO USE OF ASSETS WITHOUT YOUR AUTHORISATION.** Morgan Stanley may not borrow, lend or otherwise use for its own purposes any Secured Assets (other than Cash), either to or for itself, as agent or principal, or to or for another person (including an Associated Firm), unless you have authorised Morgan Stanley to do so by:

(a) giving Morgan Stanley written notice of the description and amount of such assets, and

(b) entering into a separate agreement with Morgan Stanley for this purpose.

## 3. ENFORCEMENT OF SECURITY

**3.1 ENFORCEABILITY.** On an Event of Default, MSIP may enforce all or any part of the Security, without prior notice or demand to you.

**3.2 POWERS.** In enforcing the Security, MSIP may sell, pledge, deposit or otherwise deal with any of the Secured Assets, free of any interest of yours and at the times, in the manner and on the terms as MSIP in its absolute discretion think fit (without being responsible to you for any loss or diminution in price).

**3.3 APPLICATION OF NET PROCEEDS.** The net proceeds of any such enforcement of Security will be applied towards discharge of the Liabilities. Such proceeds may be applied towards discharge of Liabilities in such priority as MSIP shall determine in its absolute discretion. You will be entitled to any balance remaining after

discharge of all Liabilities. You remain liable for any shortfall and will immediately pay to MSIP the balance remaining due to it.

**3.4 OTHER MEANS OF ENFORCEMENT.** If you fail to discharge any or all of the Liabilities, MSIP may take any other lawful measures to obtain discharge at any time and in any manner MSIP thinks fit, without thereby affecting the Security.

**3.5 SUSPENSE ACCOUNT.** MSIP may, for the purpose of maximising recoveries in any actual or potential winding-up, dissolution or analogous proceeding relating to you or any other person, or prior to the application of any amounts received or recovered by MSIP in exercise of any rights under the Customer Agreement credit any such amount to, and require the same to be paid to MSIP for crediting to, an interest bearing suspense account for so long and in such manner as MSIP may determine.

**3.6 APPROPRIATION.** To the extent that any of the Secured Assets constitutes “financial collateral” and the Customer Agreement and the Liabilities constitute a “security financial collateral arrangement” (in each case as defined in, and for the purposes of, the Financial Collateral Arrangements (No. 2) Regulations 2003 (SI 2003 No. 3226) of the UK (“FCA Regulations”)), MSIP shall have the right to appropriate any of such financial collateral in or towards discharge of the Liabilities. For this purpose, the value of any of the Secured Assets so appropriated shall be the market price determined by MSIP by reference to such sources or other process as MSIP may select, including independent valuation. The method of valuation provided for in the Customer Agreement shall constitute a commercially reasonable method of valuation for the purposes of the FCA Regulations.

**3.7 APPLICATION OF CLIENT MONEY.** On an Event of Default, MSIP shall be entitled to instruct the Approved Bank at which your Client Money is held to retain all or any part thereof or, as MSIP may instruct, to pay to MSIP all or any part thereof for application towards the discharge of Liabilities or otherwise as may be contemplated by the Customer Agreement.

**3.8 PERSONAL PROPERTY SECURITIES ACT (PPSA) OF AUSTRALIA.** Where the Customer Agreement or any Transactions give rise to a PPS Security Interest, the following provisions are intended to protect any interest that MSIP and MSWM, as the secured parties with a PPS Security Interest, have in the Secured Assets. You acknowledge and agree that until termination of the Customer Agreement:

**3.8.1** MSIP may initiate or control sending instructions in relation to the transfer of, or other dealings relating to the Secured Assets;

**3.8.2** to the extent MSIP and MSWM have a PPS Security Interest in any of the Secured Assets, you must do anything (including executing any document, obtaining any consent or agreement or giving any notice) that MSIP may require to enable MSIP to perfect by registration on the Personal Property Securities Register, control, possession or otherwise and protect any PPS Security Interest;

**3.8.3** MSIP may register one or more financing statements in relation to a PPS Security Interest and, if permitted by the PPSA, you waive your right under section 157 of the PPSA to receive notice of any verification statement or any related financial change statement;

**3.8.4** none of the provisions of the PPSA specified in paragraphs (a) to (r) inclusive of section 115 of the PPSA will apply in relation to any Secured Assets the subject of a PPS Security Interest established under or contemplated by this Customer Agreement, to the extent that this is permitted by the relevant paragraph of section 115 of the PPSA in relation to that provision;

**3.8.5** you will not disclose information of a kind mentioned in section 275(1) of the PPSA, except in circumstances required by section 275(7)(b) to (e) of the PPSA;

**3.8.6** you will only authorise the disclosure of information under section 275(7)(c), or request information under section 275(7)(d), of the PPSA if MSIP approves such disclosure. Nothing in this Clause 3.8.6 will prevent any disclosure by MSIP if MSIP believes such disclosure is necessary to comply with other obligations under the PPSA;

**3.8.7** you will notify MSIP at least 15 Joint Business Days before:

(a) you change your name;

(b) any Australian business name (“ABN”), Australian registered body number (“ARBN”) or Australian registered scheme number (“ARSN”) is allocated or begins to apply to you or any ABN, ARBN or ARSN allocated to you changes, is cancelled or otherwise ceases to apply to you; or

(c) you become a trustee of a trust or partner in a partnership; and

**3.8.8** you will promptly notify Morgan Stanley if you become registered to carry on business in Australia under Part 5B.2 of the Corporations Act.

If a term used in this Clause 3.8 of the Annex has a particular meaning in the PPSA, it shall have the same meaning in this Clause 3.8.



## Appendix I

# Risk Disclosure Statements

### 1. RISK OF SECURITIES TRADING

The prices of securities fluctuate, sometimes dramatically. The price of a security may move up or down, and may become valueless. It is as likely that losses will be incurred rather than profit made as a result of buying and selling securities.

### 2. RISK OF TRADING FUTURES AND OPTIONS

The risk of loss in trading futures contracts or options is substantial. In some circumstances, you may sustain losses in excess of your initial margin funds. The risks associated with Margined Transactions such as futures and options are set out in Clause 9.7 (*Margined Transactions*) of this Appendix I. You should therefore study and understand futures contracts and options before you trade and carefully consider whether such trading is suitable in the light of your own financial position and investment objectives. If you trade options you should inform yourself of exercise and expiration procedures and your rights and obligations upon exercise or expiry.

### 3. RISK OF TRADING GROWTH ENTERPRISE MARKET (GEM) STOCKS

GEM stocks involve a high investment risk. In particular, companies may list on GEM with neither a track record of profitability nor any obligation to forecast future profitability. GEM stocks may be very volatile and illiquid.

You should make the decision to invest only after due and careful consideration. The greater risk profile and other characteristics of GEM mean that it is a market more suited to professional and other sophisticated investors.

Current information on GEM stocks may only be found on the internet website operated by The Stock Exchange of Hong Kong Limited. GEM companies are usually not required to issue paid announcements in gazetted newspapers.

You should seek independent professional advice if you are uncertain of or have not understood any aspect of this risk disclosure statement or the nature and risks involved in trading GEM stocks.

### 4. RISKS OF CLIENT ASSETS RECEIVED OR HELD OUTSIDE THE UK

Client assets received or held by MSIP outside the UK are subject to the applicable laws and regulations of the relevant overseas jurisdiction which may be different from the FCA Rules. Consequently, such client assets may not enjoy the same protection as that conferred on client assets received or held in the UK.

### 5. RISK OF MARGIN TRADING

The risk of loss in financing a transaction by deposit of collateral is significant. You may sustain losses in excess of your cash and any other assets deposited as collateral with a licensed person. Market conditions may make it impossible to execute contingent orders, such as “stop-loss” or “stop-limit” orders. You may be called upon at short notice to make additional margin deposits or interest payments. If the required margin deposits or interest payments

are not made within the prescribed time, your collateral may be liquidated without your consent. Moreover, you will remain liable for any resulting deficit in your account and interest charged on your account. You should therefore carefully consider whether such a financing arrangement is suitable in light of your own financial position and investment objectives.

#### **6. RISK OF PROVIDING AN AUTHORITY TO DIRECT MAIL TO THIRD PARTIES**

If you provide MSWM with an authority to direct mail to third parties, it is important for you to promptly collect in person all statements of your account and review them in detail to ensure that any anomalies or mistakes can be detected in a timely fashion.

#### **7. RISK OF TRADING NASDAQ-AMEX SECURITIES AT THE STOCK EXCHANGE OF HONG KONG LIMITED**

The securities under the Nasdaq-Amex Pilot Program (PP) are aimed at sophisticated investors. You should consult MSWM and become familiarised with the PP before trading in the PP securities. You should be aware that the PP securities are not regulated as a primary or secondary listing on the Main Board or the GEM of The Stock Exchange of Hong Kong Limited.

#### **8. RISK OF PROVIDING AN AUTHORITY TO REPLEDGE YOUR SECURITIES COLLATERAL**

There is risk if you provide MSIP with an authority that allows it to apply your securities or securities collateral pursuant to a securities borrowing and lending agreement, repledge your securities collateral for financial accommodation or deposit your securities collateral as collateral for the discharge and satisfaction of its settlement obligations and liabilities.

#### **9. RISKS OF DIFFERENT PERMITTED INVESTMENTS**

The majority of Transactions that MSIP conducts on your behalf are dependent upon fluctuations in the financial markets outside its control. Please note that historical performances are not indicators of future performance; the value of your Investments may go up as well as down and you may not get back the full amount invested. Subject to the confirmation of your investment objectives and financial information as recorded in the Account Application Form or as otherwise notified in writing to Morgan Stanley, including as notified to your MSWM financial adviser, as the case may be, and, where relevant, to the appropriate Modules, the type of Transactions and/or Investments MSIP may advise you about or enter into with or for you may include the following:

**9.1 SHARES.** Shares (and other equity securities) are instruments in the capital of a company. A shareholder will be a member of the company and will have a variety of rights depending on the rights attaching to the shares. These may include rights to vote on some or all matters in a general meeting of the company and rights to receive dividends distributed (if any) by the company.

The price of shares will depend upon a variety of factors including, in particular, the current and forecast profitability of the company, general economic conditions, corporate action and market sentiment. The price of shares may also be very volatile (in other words, the price may fluctuate over a relatively short period of time), and fluctuate depending upon the liquidity of the particular share. Some shares are illiquid, which means that they do not trade very frequently. In respect of such shares the price will tend to be affected much more by transactions in those shares than shares

that are liquid and trade frequently. There is a greater risk of not being able to sell illiquid shares quickly without making a loss.

In the event of an insolvency of the company shareholders' claims to a return of their capital invested in the company will be subordinated to the claims of other creditors. There is therefore a risk that you may not recover the value of your investment upon the insolvency of the company.

**9.2 BONDS.** Bonds are instruments acknowledging indebtedness. In other words they are instruments issued by a company, government or other borrower representing a debt due to the holder of the bond. Bonds will not confer on holders the same rights attaching to shares. A holder of bonds will be entitled to receive interest (referred to as the "coupon") on the bond, which may be at a fixed or floating rate. In addition, the holder of the bond is entitled to receive repayment of the principal amount of the bond at maturity of the bond or upon an earlier redemption by the borrower.

The price of a bond will depend upon a variety of factors including, in particular, fluctuations in interest rates and the financial condition of the borrower. In the event of the borrower facing financial difficulties the risk of default will increase and the price of the bond will fall. In the event of the insolvency of the borrower bondholders will rank as creditors of the borrower and will be entitled to prove in the insolvency of the borrower. Bondholders will generally rank ahead of shareholders on a distribution of the borrower's assets.

**9.3 NON-READILY REALISABLE INVESTMENTS.** The market in these Investments is limited, or could become so, and they can be difficult to deal in, buy or sell and it can be difficult to assess their real value.

**9.4 STABILISED INVESTMENTS.** MSWM or its representatives may, from time to time, recommend Transactions in securities to you, or carry out such Transactions on your behalf, where the price may have been influenced by measures taken to stabilise it. You should read the explanation below carefully. This is designed to help you judge whether you wish your funds to be invested at all in such securities and, if you do, whether you wish:

(a) to be consulted before MSIP carry out any such Transaction on your behalf; or

(b) to authorise MSIP to carry out any such Transaction on your behalf without first having to consult you.

**9.4.1 WHAT IS STABILISATION?** Stabilisation is a price supporting process that may take place in the context of new issues of securities. Stabilisation enables the market price of a security to be maintained artificially during the period when a new issue of securities is sold to the public. Stabilisation may affect not only the price of the new issue but also the price of other securities relating to it.

The FCA and other regulators allow stabilisation in order to help counter the fact that, when a new issue comes onto the market for the first time, the price can sometimes drop for a time before buyers are found.

MSWM or its representatives or agents may, from time to time, recommend Transactions in securities to you (where MSWM agree to advise you), or carry out such Transactions on your behalf, where the price may have been influenced by measures taken to stabilise it. Stabilisation is carried out by a 'stabilisation manager'

(normally the firm chiefly responsible for bringing a new issue to market). As long as the stabilising manager follows a strict set of rules, he is entitled to buy back securities that were previously sold to investors or allotted to institutions which have decided not to keep them. The effect of this may be to keep the price at a higher level than it would otherwise be during the period of stabilisation.

The stabilisation rules issued by the FCA:

- (1) Limit the period when a stabilising manager may stabilise a new issue;
- (2) Fix the price at which he may stabilise (in the case of shares and warrants but not bonds); and
- (3) Require him to disclose that he may be stabilising but not that he is actually doing so. The fact that a new issue or a related security is being stabilised should not be taken as any indication of the level of interest from investors, nor of the price at which they are prepared to buy the securities.

**9.5 SHORT POSITIONS.** This means that MSWM may have sold on your behalf Investments which you do not own at the time, leaving you with an open exposure related to any increase in the price of those Investments before settlement. MSWM may cover your settlement obligations by borrowing for you the relevant Investments provided that you have signed the relevant Modules and/or entered into other relevant agreements.

**9.6 OFF-EXCHANGE TRANSACTIONS.** These Transactions are not carried out on an Exchange that is a Regulated Market or Multilateral Trading Facility for the purposes of the FCA Rules. Therefore, these Transactions might not be subject to certain investor protection standards.

**9.7 MARGINED TRANSACTIONS.** These Transactions would involve you in a contingent liability to make further payments to MSWM, for example the payment of margin. Providing margin means that you will be liable to make further variable payments against the purchase price of an asset which you have not paid for in full or against a sum which may become due from you (for example, delivery obligations under a futures contract or option written by you). The movement in the market price of the assets or assets underlying those futures or options will affect the amount of margin you will be required to pay. Unless specifically agreed in writing, (i) there is no limit on the amount of any contingent liability you may incur and it may be greater than your Investment; and (ii) there is no limit on the amount or percentage of your account which may be invested in contingent liability Transactions. Placing contingent orders, such as “stop-loss” or “stop-limit” orders, will not necessarily avoid loss. Market conditions may make it impossible to execute such contingent orders. You may be called upon at short notice to make additional margin deposits or interest payments. If the required margin deposits or interest payments are not made within the prescribed time, your collateral may be liquidated without your consent. Moreover, you will remain liable for any resulting deficit in your account and interest charged on your account.

The risk of loss in financing a Transaction by the deposit of collateral is significant. You may sustain losses in excess of your cash and other assets deposited as collateral. You should therefore carefully consider whether such a financing arrangement is suitable in light of your own financial position and investment objectives.

**9.8 UNITS IN UNREGULATED COLLECTIVE INVESTMENT SCHEMES.** MSWM may advise you on Investments relating to or undertake Transactions with or for you in, units in unregulated collective investment schemes.

**9.9 UNITS IN REGULATED COLLECTIVE INVESTMENT SCHEMES.** MSWM may advise you on, or undertake Transactions with or for you in, regulated collective investment schemes. You agree that where permitted by Applicable Regulations, MSWM need not provide you with a copy of any prospectus or product disclosure statement or key investor information document.

Where you invest in a regulated collective investment scheme you may have a right to cancel within 14 calendar days of the relevant Transaction. You may still be required to pay to exercise this right and in order to exercise this right you should contact your MSWM financial adviser. A failure to exercise your right within the 14 calendar days would mean that the right will lapse.

The characteristics of a collective investment scheme include that investors will not have control over the assets of the scheme but the assets will instead be managed by a manager. Income and profits (or losses) are pooled before being distributed to investors. **Investment in collective investment schemes carries substantial risks.**

Regulated collective investment schemes are authorised or regulated by regulators. There is a wide range of regulated collective investment schemes and these include, for example, unit trusts and exchange traded funds. Regulated collective investment schemes are subject to strict investment and borrowing limits which may make them less risky than investing in an unregulated collective investment scheme. Nevertheless, substantial risks remain, including:

- (1) Exposure to underlying assets – a collective investment scheme will be exposed to the movement in price of the assets underlying the scheme. Should the value of the underlying assets depreciate it is very likely that the value of a unit in the fund will also depreciate.
- (2) Limited diversification of investments – some collective investment schemes may have very narrow investment parameters. Such narrow investment parameters expose the scheme to substantial unhedged losses in the event of a fall in the general price of the relevant investment.
- (3) Exposure to market volatility – whilst there may be a liquid market in the units in some collective investment schemes, this means that the units are subject to market sentiment which may not value the units in the same way as the underlying investments.
- (4) Use of leverage – some collective investment schemes may use leverage/borrow money in order to increase the level of funds for investing. This may reduce (or completely eliminate) the funds available for distribution to fund investors.

**9.10 PENNY SHARES.** If you are a Retail Client, please be aware that there is an extra risk of losing money when shares are bought in some smaller companies including Penny Shares. There is a significant difference between the buying price and the selling price of the shares. If they have to be sold immediately, you may get back much less than you paid for them. The price may change quickly and it may go down as well as up.



**10. RISKS OF INVESTING IN CERTIFICATES OF DEPOSIT ("CD") OR EURO-COMMERCIAL PAPER ("ECP") ISSUED BY BANKS OR ISSUERS OTHER THAN MORGAN STANLEY (COLLECTIVELY, THE "ISSUERS") UNDER CD OR ECP PROGRAMS FOR WHICH MORGAN STANLEY MAY OR MAY NOT BE AN ARRANGER ("ARRANGER") OR DEALER ("DEALER")**

**10.1 INVESTMENTS IN CD OR ECP MAY NOT BE PROTECTED BY THE AUSTRALIAN FINANCIAL CLAIMS SCHEMES.** Unless the CD or ECP is a 'protected account' for the purposes of the Banking Act 1959 (Cth) of Australia, you will not be entitled to any compensation under the Australian Government's Financial Claim Scheme in respect of an investment in a CD or ECP.

**10.2 RELIANCE ON THE ISSUER'S CREDITWORTHINESS WHEN BUYING CD OR ECP.** You must rely on the Issuer's creditworthiness when you buy the CD or ECP. The CD or ECP represent the Issuer's general unsecured contractual obligations and are not secured on any of the Issuer's assets. There is no assurance of protection against a default by the Issuer in respect of its payment or delivery obligations under the CD or ECP. You may lose the entire value of your deposit or investment if the Issuer becomes insolvent or defaults on its obligations under the CD or ECP.

**10.3 THE CD OR ECP ARE DESIGNED TO BE HELD UNTIL MATURITY. THERE IS LIMITED SECONDARY MARKET ONLY.** The CD or ECP are designed for investors who intend to hold their CD or ECP until maturity. The CD or ECP have no established trading market. Therefore, you may not be able to sell your CD or ECP at all or at prices that will provide them with a yield comparable to investments that have a developed secondary market. This is particularly the case for CD or ECP that are especially sensitive to interest rate, currency or market risks, are designed for specific investment objectives or strategies or have been structured to meet the investment requirements of limited categories of investors. These types of CD or ECP generally would have a more limited secondary market and more price volatility than conventional debt securities. Illiquidity may have a severely adverse effect on the market value of the CD or ECP.

In particular, in respect of CD or ECP denominated in Renminbi, the PRC government's imposition of restrictions on the repatriation of Renminbi out of the PRC may limit the depth of the Renminbi market in Hong Kong and reduce the liquidity of such CD or ECP. The PRC government's policies on exchange control and repatriation restrictions are subject to change, and your positions may be adversely affected. If you try to sell your CD or ECP before the maturity date, you may receive an offer which is less or substantially less than the original amount you invested. This is because during the term of the CD or ECP, the market price of the CD or ECP may fluctuate, compared with the initial purchase price of the CD or ECP, depending on many factors, including market interest rate movements, the Issuer's financial condition and results of operations, the market's view of the Issuer's credit quality and the market for similar securities. You could lose part or all of your investment if you choose to sell your CD or ECP prior to the maturity date. Even if you are able to sell your CD or ECP before the maturity date, you may not be able to enjoy the same rate of return if you re-invest in other investments.

You should carefully consider whether the purchase of the CD or ECP is a suitable investment in light of your financial position and

investment objectives, especially if you may wish to sell the CD or ECP before maturity or may need access to the money you invest before the maturity of the CD or ECP. You should be prepared to invest your funds in the CD or ECP for the full investment term.

**10.4 RELIANCE UPON THE INTERMEDIARIES.** Except in very limited circumstances that may apply in certain CD or ECP programs, the CD or ECP will be represented by a single Global CD or ECP and no individual bearer certificates will be issued to an individual customer with respect to their holding of the CD or ECP. The CD or ECP may be held in a Clearing System (which can be any of Clearstream, Luxembourg, Euroclear, or the CMU Services). Individual investors cannot open a personal account at the Clearing System: it serves only institutions, which means a bank or financial institution ("Intermediary") will hold the CD or ECP on behalf of each investor in an account at the Clearing System either through its own account or through an account of its direct or indirect custodian with the Clearing System.

In such circumstances, the Issuer will pay interest and principal on the CD or ECP to the Intermediary and you will have to rely on the Intermediary to ensure that payments on the CD or ECP are credited to your account with the Intermediary. Any notice the Issuer gives after the CD or ECP are issued will also be given to the Intermediary and you will also have to rely on the Intermediary to ensure that the Issuer's notice reaches you. Similarly, you will have to rely on the Intermediary to forward any notices from you to the Issuer.

**10.5 THE CD MAY HAVE FEATURES WHICH CONTAIN PARTICULAR RISKS FOR POTENTIAL INVESTOR.** A wide range of CD may be issued under the program. CD may have features which contain particular risks for potential customers. You should read carefully the risk disclosure for the series of CD you are interested in and ensure you fully understand the risks involved. Set out below is a description of two such common features:

**10.5.1 CDS SUBJECT TO OPTIONAL REDEMPTION BY THE ISSUER.** An optional redemption feature is likely to limit the market value of CD. During any period when the Issuer may elect to redeem the CD, the market value of those CD generally will not rise substantially above the price at which they can be redeemed. This also may be true prior to any redemption period.

The Issuer may redeem CD which have an optional redemption feature when its cost of borrowing is lower than the interest rate on the CD. At those times, you generally would not be able to reinvest the redemption proceeds at an effective interest rate as high as the interest rate on the CD being redeemed and may only be able to do so at a significantly lower rate. You should consider reinvestment risk in light of other investments available at that time.

**10.5.2 FIXED RATE CD OR ECP.** The fixed rate CD or ECP carry a fixed interest rate which is paid in arrears. Upon maturity, the Issuer will pay holders of the CD or ECP the principal amount of the CD or ECP plus any unpaid accrued interest. The maximum return on an investment in the CD or ECP is limited to these interest payments. As the fixed rate CD or ECP are fixed income securities which are structured to provide customers with returns primarily through regular interest payments thereon, holders of the CD or ECP who do not hold the CD or ECP through to maturity or who dispose of the CD or ECP in the secondary market may not realise any capital gain due to the subsequent

changes in market interest rates: for example, if market interest rates rise, the value of a fixed rate CD will usually fall.

In particular, in respect of fixed rate CD or ECP denominated in Renminbi, such CD or ECP will carry a fixed interest rate. Your investment in such CD or ECP is subject to interest rate risks. The PRC government has gradually liberalised the regulation of interest rates over the years. Further liberation may increase interest rate volatility. Consequently, the trading price of such CD or ECP will vary with the fluctuations in the Renminbi interest rates. If you try to dispose of your CD or ECP before their maturity, you may receive an offer that is less than the amount you have invested.

#### **10.6 INVESTING IN CD OR ECP MAY INVOLVE EXCHANGE RATE RISK**

**10.6.1 FOREIGN CURRENCY CONVERSION.** The CD or ECP may be issued in different currencies. Where necessary, the Issuer will convert one currency into another at a specified or prevailing exchange rate in making calculations under the CD or ECP. In addition, if the currency denomination of the CD or ECP is not your home currency and you choose to convert payments made on the CD or ECP back to your home currency, the amount you receive will be determined by reference to the prevailing exchange rate between the currency in which the CD or ECP are denominated and your home currency. You should note that the prevailing exchange rate may fluctuate as a result of market conditions and economic factors and that may have an adverse impact on the financial return on the CD or ECP.

**10.6.2 RENMINBI CURRENCY RISK.** In respect of CD or ECP denominated in Renminbi, you should note that Renminbi is not freely convertible at present and conversion of Renminbi through banks in Hong Kong is subject to certain restrictions. In particular, if you are a Hong Kong resident, the conversion of Renminbi by you through banks in Hong Kong is subject to a daily limit (currently CNY20,000 per person per day). If the limit applies to you and you intend to convert an amount of Renminbi from/to another currency exceeding such daily limit, you should allow a sufficient period of time to enable the conversion of the amount of Renminbi exceeding such daily limit, taking into account the maximum amount of Renminbi that you are permitted to convert on each day.

All payments in respect of CD or ECP denominated in Renminbi shall be made solely by credit to a Renminbi bank account maintained in Hong Kong in accordance with applicable laws and regulations at a bank in Hong Kong. It is your responsibility to establish and maintain such an account. The Issuer cannot be required to make payment by any other means (including in bank notes or by transfer to a bank account in the PRC or anywhere else outside Hong Kong).

In addition, if the Issuer is not able to obtain sufficient amount of Renminbi for the purposes of making payments on the CD or ECP denominated in Renminbi in a timely manner due to exchange controls and restrictions applicable to Renminbi, you may not receive the full amount in Renminbi upon redemption.

## Appendix I-A

# Secured Financing Solutions Risk Disclosure Acknowledgement

## 1. AUTHORISATION

In connection with MSIP's provision to you of Secured Financing Solutions, you will be required to execute an Authorisation, by which you give MSIP a right of use in respect of your assets that is subject to a security interest in favour of MSIP (the "Right of Use").

The Authorisation supplements and amends the Customer Agreement entered into by you. The Authorisation discloses various risks related to granting MSIP a Right of Use. In addition, in Clause 2 of this Appendix I-A below, MSIP provides the Information Statement in accordance with Article 15 of the EU Securities Financing Transactions Regulation ("Information Statement" in this Appendix I-A). If you require a copy of an explanatory brochure about Secured Financing Solutions which includes more detailed risk disclosures, please contact your MSWM financial adviser. Where Morgan Stanley makes a recommendation or solicitation to you in respect of Secured Financing Solutions, MSIP has a regulatory duty under the applicable code of conduct, guidelines and circulars issued by the Securities and Futures Commission to take reasonable steps to assess the suitability of the solicitation or recommendation to you.

You confirm that you have read and understood the risk disclosures in the Information Statement and those contained in the section entitled 'About Secured Financing Solutions' in the explanatory brochure, and you expressly acknowledge, understand and agree for the benefit of Morgan Stanley and the Associated Firms that:

- (a) you have been given adequate warning by Morgan Stanley of the rights and protections you may lose in relation to your assets that MSIP uses, pursuant to the Right of Use, and you understand the consequences of losing those rights and protections;
- (b) you are capable of assessing, and do understand, the merits of, and the terms, conditions and risks of, granting MSIP a Right of Use, and you are able to assume such risks; and
- (c) you have had the opportunity to ask Morgan Stanley questions; however, to the extent permissible under applicable laws and regulations, Morgan Stanley is not acting as your fiduciary in relation to Secured Financing Solutions, and you are capable of making your own decision to grant MSIP a Right of Use on the basis of your own judgement and on the basis of such independent legal, tax or other professional advice as you have considered necessary.

## 2. INFORMATION STATEMENT

### 2.1 INTRODUCTION

You have received this Information Statement in accordance with Article 15 of the Securities Financing Transactions Regulation because you have entered into or may hereafter enter into one or more title transfer collateral arrangements or security collateral arrangements containing a Right of Use (together, "Collateral Arrangements") with MSIP.

This Information Statement has been prepared to comply with Article 15 of the Securities Financing Transactions Regulation by



informing you of the general risks and consequences that may be involved in consenting to a Right of Use of collateral provided under a security collateral arrangement or of concluding a title transfer collateral arrangement (“Re-use Risks and Consequences”). The information required to be provided to you pursuant to Article 15 of the Securities Financing Transactions Regulation relates only to Re-use Risks and Consequences, and so this Information Statement does not address any other risks or consequences that may arise as a result of your particular circumstances or as a result of the terms of particular Transactions.

This Information Statement is not intended to be, and should not be relied upon as, legal, tax or accounting advice. Unless otherwise expressly agreed in writing, MSIP is not providing you with any such legal, tax or accounting advice and you should consult your own legal, tax or accounting advisors on consenting to a right of use of collateral provided under a security collateral arrangement or on concluding a title transfer collateral arrangement, including the impact on your business and the requirements of, and results of, entering into any Transaction.

Clause 4 of this Appendix I-A sets out an indicative (but not exhaustive) list of types of agreement that may constitute Collateral Arrangements.

Clause 5 of this Appendix I-A sets out alternative disclosures that are applicable if we are (1) a U.S. broker-dealer or futures commission merchant or (2) a U.S. bank or U.S. branch or agency office of a non-U.S. bank.

In this Information Statement :

- **“Right of Use”** means any right MSIP has to use, in its own name and on its own account or the account of another counterparty, financial instruments received by it by way of collateral under a security collateral arrangement between you and MSIP;
- **“Securities Financing Transactions Regulation”** means Regulation (EU) 2015/2365 of the European Parliament and of the Council of 25 November 2015 on transparency of securities financing transactions and of reuse and amending Regulation (EU) No 648/2012 (as amended from time to time);
- **“Transaction”** means a transaction entered into, executed or agreed between you and MSIP under which you agree to provide financial instruments as collateral, either under a security collateral arrangement or under a title transfer collateral arrangement;
- **“Financial Instruments”, “security collateral arrangement”** and **“title transfer collateral arrangement”** have the meaning given to those terms in the Securities Financing Transactions Regulation. These are set out in Clause 3 of this Appendix I-A for reference.

## 2.2 RE-USE RISKS AND CONSEQUENCES

(a) Where you provide financial instruments to MSIP under a title transfer collateral arrangement or if MSIP exercises a Right of Use in relation to any financial instruments that you have provided to MSIP by way of collateral under a security collateral arrangement containing a Right of Use, MSIP draws your attention to the following Re-use Risks and Consequences:

- (i) Your rights, including any proprietary rights that you may have had, in those financial instruments will be replaced by an unsecured contractual claim for delivery of equivalent

financial instruments subject to the terms of the relevant Collateral Arrangement;

- (ii) Those financial instruments will not be held by MSIP in accordance with client asset rules, and, if they had benefited from any client asset protection rights, those protection rights will not apply (for example, the financial instruments will not be segregated from MSIP’s assets and will not be held subject to a trust);

- (iii) In the event of MSIP’s insolvency or default under the relevant agreement your claim against MSIP for delivery of equivalent financial instruments will not be secured and will be subject to the terms of the relevant Collateral Arrangement and applicable law and, accordingly, you may not receive such equivalent financial instruments or recover the full value of the financial instruments (although your exposure may be reduced to the extent that you have liabilities to MSIP which can be set off or netted against or discharged by reference to MSIP’s obligation to deliver equivalent financial instruments to you);

- (iv) In the event that a resolution authority exercises its powers under any relevant resolution regime in relation to MSIP any rights you may have to take any action against MSIP, such as to terminate the agreement between you and MSIP, may be subject to a stay by the relevant resolution authority and:

- (A) your claim for delivery of equivalent financial instruments may be reduced (in part or in full) or converted into equity; or

- (B) a transfer of assets or liabilities may result in your claim on MSIP, or MSIP’s claim on you, being transferred to different entities

although you may be protected to the extent that the exercise of resolution powers is restricted by the availability of set-off or netting rights;

- (v) As a result of your ceasing to have a proprietary interest in those financial instruments, you will not be entitled to exercise any voting, consent or similar rights attached to the financial instruments, and even if MSIP has agreed to exercise voting, consent or similar rights attached to any equivalent financial instruments in accordance with your instructions or the relevant Collateral Arrangement entitles you to notify MSIP that the equivalent financial instruments to be delivered by MSIP to you should reflect your instructions with respect to the subject matter of such vote, consent or exercise of rights, in the event that MSIP does not hold and is not able to readily obtain equivalent financial instruments, MSIP may not be able to comply (subject to any other solution that may have been agreed between the parties);

- (vi) In the event that MSIP is not able to readily obtain equivalent financial instruments to deliver to you at the time required: you may be unable to fulfil your settlement obligations under a hedging or other transaction you have entered into in relation to those financial instruments; a counterparty, exchange or other person may exercise a right to buy-in the relevant financial instruments; and you may be unable to exercise rights or take other action in relation to those financial instruments;

(vii) Subject to any express agreement with MSIP, MSIP will have no obligation to inform you of any corporate events or actions in relation to those financial instruments;

(viii) You will not be entitled to receive any dividends, coupon or other payments, interests or rights (including securities or property accruing or offered at any time) payable in relation to those financial instruments, although the express written terms of the relevant Collateral Arrangement or Transaction may provide for you to receive or be credited with a payment by reference to such dividend, coupon or other payment (a “manufactured payment”);

(ix) The provision of title transfer collateral to MSIP, MSIP’s exercise of a right of use in respect of any financial collateral provided to MSIP by you and the delivery by MSIP to you of equivalent financial instruments may give rise to tax consequences that differ from the tax consequences that would have otherwise applied in relation to the holding by you or by MSIP for your account of those financial instruments;

(x) Where you receive or are credited with a manufactured payment, your tax treatment may differ from your tax treatment in respect of the original dividend, coupon or other payment in relation to those financial instruments.

(b) Where MSIP provides you with clearing services (whether directly as a clearing member or otherwise), you should be aware of the following additional Re-use Risks and Consequences:

(i) If MSIP is declared to be in default by an EU central counterparty (“EU CCP”) the EU CCP will try to transfer (“port”) your transactions and assets to another clearing broker or, if this cannot be achieved, the EU CCP will terminate your transactions;

(ii) In the event that other parties in the clearing structure default (e.g., a central counterparty, a custodian, settlement agent or any clearing broker that we may instruct) you may not receive all of your assets back and your rights may differ depending on the law of the country in which the party is incorporated (which may not necessarily be English law) and the specific protections that that party has put in place;

(iii) In some cases a central counterparty may benefit from legislation which protects actions it may take under its default rules in relation to a defaulting clearing member (e.g., to port transactions and related assets) from being challenged under relevant insolvency law.

### 3. DEFINITIONS

Defined terms for the purposes of the Securities Financing Transactions Regulation:

“**Financial Instrument**” means the instruments set out in Section C of Annex I to Directive 2014/65/EU on markets in financial instruments, and includes without limitation:

- (1) Transferable securities;
- (2) Money-market instruments;
- (3) Units in collective investment undertakings.

“**Title Transfer Collateral Arrangement**” means an arrangement, including repurchase agreements, under which a collateral provider transfers full ownership of financial collateral to a collateral taker

for the purpose of securing or otherwise covering the performance of relevant financial obligations.

“**Security Collateral Arrangement**” means an arrangement under which a collateral provider provides financial collateral by way of security in favour of, or to, a collateral taker, and where the full ownership of the financial collateral remains with the collateral provider when the security right is established.

### 4. EXAMPLES TO WHICH THE INFORMATION STATEMENT APPLIES

Set out below are examples of the types of agreements to which this Information Statement applies. These examples are for illustrative purposes only and should not be relied upon as a legal determination of the characterisation of each agreement. The fact that an agreement is grouped with Title Transfer Collateral Arrangements below does not preclude its characterisation as a Security Collateral Arrangement with a right of use and vice versa. Moreover, the characterization of an agreement may be different under U.S. and European law.

#### TITLE TRANSFER COLLATERAL ARRANGEMENT

Such arrangements may include without limitation:

- Overseas Securities Lender's Agreement
- Global Master Securities Lending Agreement
- Global Master Repurchase Agreement
- SIFMA Master Repurchase Agreement
- An ISDA Master Agreement incorporating an English Law ISDA Credit Support Annex
- An ISDA/FIA Client Cleared OTC Derivatives Addendum which provides for title transfer collateral arrangements and in particular where entered into in connection with an English law governed ISDA Master Agreement which includes the English law CSA Collateral Terms as set out in Appendix 1 thereto, or when entered into in connection with a relevant FIA client clearing agreement
- Master Gilt Edged Stock Lending Agreement
- Master Equity and Fixed Interest Stock Lending Agreement
- Prime brokerage agreements which provide for title transfer collateral arrangements
- FIA client clearing agreements for exchange traded and other cleared derivatives which provide for title transfer collateral arrangements
- FIA Clearing Module which provides for title transfer collateral arrangements
- Any bespoke agreements granting security by way of transfer of title to the secured party

#### SECURITY COLLATERAL ARRANGEMENT CONTAINING A RIGHT OF USE

Such arrangements may include without limitation:

- An ISDA Master Agreement incorporating a New York Law ISDA Credit Support Annex
- An ISDA/FIA Client Cleared OTC Derivatives Addendum which provides for security collateral arrangements and in particular where entered into in connection a New York law governed ISDA Master Agreement including the New York law CSA Collateral Terms as set out in Appendix 2 thereto,

or when entered into in connection with a relevant FIA client clearing agreement

- An ISDA Master Agreement in respect of which an English Law ISDA Credit Support Deed incorporating a right of use is a credit support document
- Prime brokerage agreements which provide for the creation of security over financial instruments
- FIA client clearing agreements for exchange traded and other cleared derivatives which provide for a creation of security over financial instruments
- FIA Clearing Module which provides for a creation of security over financial instruments
- Security arrangements in relation to margin loan documentation and associated custody agreements
- SIFMA Master Securities Lending Agreement (this agreement is generally a security collateral arrangement with respect to collateral delivered to the lender; the borrower takes title to the borrowed securities)
- Any bespoke security agreements creating security in respect of financial instruments with rehypothecation rights or a right of use over the financial instruments in favour of the secured party

#### **5. ALTERNATIVE DISCLOSURES IF MORGAN STANLEY AND/OR THE ASSOCIATED FIRMS ARE A U.S. BROKER-DEALER, U.S. FUTURES COMMISSION MERCHANT, OR U.S. BANK**

This Appendix I-A describes the Re-use Risks and Consequences that may arise under Collateral Arrangements with a bank chartered under U.S. federal or state law, a U.S. branch or agency office of a non-U.S. bank (any such bank, branch, or agency office, a “U.S. banking organization”), a U.S. entity that is registered as a broker-dealer with the U.S. Securities and Exchange Commission (“broker-dealer”), or a U.S. entity that is registered as a futures commission merchant with the Commodity Futures Trading Commission (“FCM”). A single U.S. entity can operate, and be regulated, as both a broker-dealer and an FCM, but it remains subject to separate regulatory requirements with respect to its separate activities.

U.S. law draws a distinction between financial instruments delivered to a broker-dealer or FCM and treated as customer assets (“Customer Assets”), financial instruments held by a U.S. banking organization in a trust or custodial capacity (“Custodial Assets”), and financial instruments delivered or pledged to a U.S. banking organization, broker-dealer, or FCM in a principal (non-customer) capacity (“Non-Customer Assets”). Customer Assets held by a broker-dealer or FCM are subject to mandatory segregation requirements under the rules of the SEC and CFTC, respectively, and special-purpose insolvency regimes under which segregated assets, i.e., Customer Assets and cash required to be held in segregated accounts, are distributed to customers. Custodial Assets held by a U.S. banking organization are generally segregated on an account or customer-specific basis, while in some circumstances broker-dealers and FCMs are permitted to segregate Customer Assets on an omnibus basis for all customers.

Financial instruments held in a securities account at a broker-dealer or delivered to an FCM as margin (or “performance bond”) for a cleared derivative generally constitute Customer Assets. On the

other hand, securities delivered to MSIP under a repurchase or securities lending agreement generally do not constitute Customer Assets. If, with respect to Customer Assets received by Morgan Stanley as a broker-dealer, you separately agree to lend financial instruments to MSIP under a securities lending agreement, or agree to sell financial instruments to MSIP under a repurchase agreement, then the financial instruments are removed from your account and are no longer eligible for customer protection. Any financial instruments delivered to MSIP under such transactions are Non-Customer Assets. If you are uncertain whether a financial instrument pledged or delivered to MSIP is a Customer Asset, please obtain legal advice.

With respect to Customer Assets received by MSIP as an FCM in connection with your CFTC-regulated transactions, MSIP generally cannot use such Customer Assets other than to margin, guarantee or secure those transactions. That is, MSIP may transfer such assets to segregated or secured accounts established by it with banks, clearing houses and clearing brokers, which acknowledge, via rules or written agreements, that such Customer Assets are the property of the FCM’s customers and can be utilised solely to margin, guarantee or secure customer transactions. In addition, an FCM may, pursuant to repurchase agreements, substitute such segregated Customer Assets, subject to very strict CFTC regulations, including the requirement that such substitution is made on a “delivery versus delivery” basis, and the market value of the substituted securities is at least equal to that of the Customer Assets being substituted. To the extent segregated assets were found to be insufficient to satisfy customer claims in full, customers would continue to have a claim against the proprietary assets of the FCM.

With respect to Customer Assets received by Morgan Stanley as a broker-dealer in connection with your SEC-regulated transactions, MSIP generally can use such Customer Assets only with your consent and subject to regulatory usage limits that are imposed both at the account level (by reference to the amount of your obligations to Morgan Stanley) and across all customers (by reference to the amount of all customer obligations to Morgan Stanley). The SEC requires that broker-dealers perform a daily valuation of Customer Assets (including related customer obligations) and maintain in segregation either Customer Assets or cash or other high-grade assets such that the value of segregated assets will at all times exceed the value of all Customer Assets net of customer obligations to the broker-dealer. Further, to the extent segregated assets were to be insufficient to satisfy customer claims in full, customers would continue to have a claim against the proprietary assets of the broker-dealer.

Notwithstanding point (b) of paragraph 2 of Article 15 of the Securities Financing Transactions Regulation, when MSIP uses your Customer Assets, they continue to be included on your account statement reflecting their status as Customer Assets, and it may not identify to you the financial instruments that MSIP has used.

If MSIP is a broker-dealer or FCM, its exercise of its right to use Customer Assets has no effect on the nature of your property interest in the financial instruments or on your rights as a customer in the event of its insolvency. The amount of your customer claim in a broker-dealer or FCM insolvency proceeding is a function of the value of assets held in your account and the amount of your obligations to Morgan Stanley, if any. In a broker-dealer or FCM



insolvency proceeding, all customers generally receive the same pro rata share of their claims based on Customer Assets (and customer cash), regardless of whether their financial instruments were subject to use or were used by the broker-dealer or FCM. (In the case of an FCM insolvency, customers are separated into several account classes based on product type, and recoveries may vary across account classes. Customers within the same account class receive the same pro rata share of all customer claims within that class.)

In the insolvency of a U.S. banking organization, Custodial Assets are generally returned to their owners to the extent such assets are available for distribution. Your consent to MSIP's use of your financial instruments may prevent them from being treated as Custodial Assets, and it may jeopardize your right to obtain their return in the event of our insolvency.

Collateral Arrangements with respect to Non-Customer Assets can take a variety of forms with differing legal characterizations and practical consequences. Generally, a title transfer collateral arrangement entitles you only to a creditor claim for the return of your financial instruments. Under a security collateral arrangement, in some cases you may retain a property interest in the financial instruments delivered to MSIP as collateral, but your property right (if any) may be subject to superior rights of MSIP's creditors or of a party to which MSIP has transferred the financial instruments. Additionally, in the event of MSIP's insolvency, you may lose your property interest if you are unable to identify your property as distinct from MSIP's other assets, and MSIP's use of your financial instruments may impair your ability to do so.

This Appendix is not intended to provide a complete description of the treatment of Collateral Arrangements under U.S. law or the U.S. customer protection system, and you should not rely on it for that purpose.

If MSIP is a U.S. broker-dealer, U.S. FCM, or U.S. banking organization, Sections 2(a)(i) through (v) of the Information Statement do not apply. Instead, where you provide financial instruments to MSIP under a title transfer collateral arrangement or if MSIP exercises a right of use in relation to any financial instruments that you have provided to MSIP by way of collateral under a security collateral arrangement containing a right of use, MSIP draws your attention to the following Re-use Risks and Consequences:

#### **RISKS IN CONNECTION WITH FINANCIAL INSTRUMENTS THAT ARE CUSTOMER ASSETS**

If MSIP is a U.S. broker-dealer or FCM and your financial instruments are Customer Assets, then MSIP is permitted to use your financial instruments

(i) to post as margin in respect of CFTC-regulated products with a clearing organization or other intermediary, and

(ii) as otherwise permitted within the limits imposed by U.S. customer protection rules. When MSIP uses your Customer Assets, MSIP may not hold them in segregation or trust, depending on the applicable U.S. regulation, but MSIP continues to report them on your account statement reflecting their status as Customer Assets. As a result of MSIP's use of your Customer Assets, those assets are subject to the Re-use Risks and Consequences listed in Sections 2(a)(vi) through (x) of the Information Statement. In addition, if MSIP provides you with clearing services (whether directly as

a clearing member or otherwise), Customer Assets are subject to the Re-use Risks and Consequences listed in Section 2(b) of the Information Statement.

Moreover, as a result of MSIP's use of those financial instruments (including, in some cases, your ceasing to have a proprietary interest in those financial instruments), or the failure of a third party to deliver to MSIP any financial instruments, you may not be entitled to exercise any voting, consent or similar rights attached to the financial instruments, and even if MSIP has agreed to exercise voting, consent or similar rights attached to any equivalent financial instruments in accordance with your instructions or the relevant Collateral Arrangement entitles you to notify MSIP that the equivalent financial instruments to be delivered by MSIP to you should reflect your instructions with respect to the subject matter of such vote, consent or exercise of rights, in the event that MSIP does not hold and is not able to readily obtain equivalent financial instruments, MSIP may not be able to comply (subject to any other solution that may have been agreed between the parties).

However, MSIP's right to use Customer Assets and MSIP's actual use of Customer Assets do not present any insolvency-related Re-use Risks and Consequences. This is because, as described above, in the event of its insolvency your claim for Customer Assets would be calculated according to a formula that does not take MSIP's use of assets into account.

In the event that a receiver, conservator or other insolvency official exercises its powers under an insolvency regime in relation to MSIP, any rights you may have to take any action against MSIP, such as to terminate the agreement you have with MSIP, may be subject to a stay by the relevant authority and a transfer of assets or liabilities may result in your claim on MSIP, or MSIP's claim on you, being transferred to different entities. However, this risk exists regardless of whether MSIP has used your financial instruments or you have consented to their use.

#### **RISKS IN CONNECTION WITH FINANCIAL INSTRUMENTS THAT ARE NON-CUSTOMER ASSETS**

Non-Customer Assets are not protected by the U.S. customer protection rules that apply to Customer Assets. If MSIP is a U.S. broker-dealer or FCM and your financial instruments are Non-Customer Assets, or MSIP is a U.S. banking organization, and you have granted MSIP a right to use your financial instruments, then MSIP will not hold such financial instruments in segregation or trust. Your rights, including any proprietary rights that you may have had, in those financial instruments may be replaced by a contractual claim (which would be unsecured unless otherwise agreed) for the delivery of equivalent financial instruments subject to the terms of the relevant Collateral Arrangement. As a result of MSIP's use of your Non-Customer Assets, those assets are subject to the Re-use Risks and Consequences listed in Sections 2(a)(vi) through (x) of the Information Statement.

If MSIP is a U.S. banking organization, as a result of your consent to MSIP's use of your financial instruments, those financial instruments may not be held by MSIP in accordance with the rules that apply to Custodial Assets, and, if they had benefited from any protections as Custodial Assets, those protection rights may not apply (for example, the financial instruments will not be segregated from MSIP's assets and will not be held subject to a trust).

Moreover, as a result of MSIP's use of financial instruments (including, in some cases, your ceasing to have a proprietary interest in those financial instruments), or the failure of a third party to deliver to MSIP financial instruments, you may not be entitled to exercise any voting, consent or similar rights attached to the financial instruments, and even if MSIP has agreed to exercise voting, consent or similar rights attached to any equivalent financial instruments in accordance with your instructions or the relevant Collateral Arrangement entitles you to notify MSIP that the equivalent financial instruments to be delivered by MSIP to you should reflect your instructions with respect to the subject matter of such vote, consent or exercise of rights, in the event that MSIP does not hold and is not able to readily obtain equivalent financial instruments, MSIP may not be able to comply (subject to any other solution that may have been agreed between the parties).

In the event of MSIP's insolvency your rights in financial instruments that MSIP has used may be replaced by a general claim (which would be unsecured unless otherwise agreed) against MSIP for equivalent financial instruments or the value of those financial instruments, and you may not receive such equivalent financial instruments or recover the full value of the financial instruments (although your exposure may be reduced to the extent that MSIP has provided collateral to you or you have liabilities to MSIP which can be set off or netted against or discharged by reference to MSIP's obligation to deliver equivalent financial instruments to you). To the extent you retain a property interest in financial assets MSIP has used, MSIP's use of the financial instruments may give other parties superior rights in them and may interfere with your ability to identify the financial instruments for the purpose of obtaining their return.

In the event that a receiver, conservator or other insolvency official exercises its powers under an insolvency regime in relation to MSIP, any rights you may have to take any action against MSIP, such as to terminate the agreement, may be subject to a stay by the relevant authority and a transfer of assets or liabilities may result in your claim on Morgan Stanley, or Morgan Stanley's claim on you, being transferred to different entities. However, this risk exists regardless of whether MSIP has used your financial instruments or you have consented to their use.

## Appendix I-B

# Morgan Stanley Fixed Income & Commodities Trading Practices and Information

This Appendix I-B is part of Morgan Stanley's ongoing effort to provide transparency to its clients on the business practices of Morgan Stanley's Institutional Securities Group. The contents of this Appendix I-B are also available at <http://www.morganstanley.com/disclaimers/instsec.html> and may be updated from time to time. As Morgan Stanley enters into transactions with you based upon a mutual understanding of the terms and conditions of any dealing, it is important that you read this Appendix to understand how Morgan Stanley may trade in relation to your expressions of interest or orders (as applicable) in fixed income and commodities products (collectively, "FIC Transaction Requests") and otherwise engage with you and others in the fixed income and commodity ("FIC") markets generally. This includes Morgan Stanley's management of conflicts of interest that may exist or arise in its principal dealing and market making activities. To the extent that you continue to enter into fixed income and commodities transactions with Morgan Stanley and the Associated Firms (collectively referred to as "Morgan Stanley" in this Appendix I-B), it will be on the basis that you have read and understood these terms.

## OVERVIEW

Morgan Stanley is a global financial services firm and its Institutional Securities Group's Sales & Trading businesses are engaged in a broad spectrum of FIC activities, including transactions in fixed income securities (including corporate bonds, U.S. Treasuries and other sovereign bonds, municipal bonds and asset-backed securities and repurchase and reverse repurchase transactions in these securities), over-the-counter and listed futures, swaps and options (including interest rates, credit and commodities), foreign exchange, physical commodities (including natural gas, electricity, emissions units and precious and base metals) and other fixed income and commodities financial instruments (collectively, "FIC Products") for a variety of purposes. Morgan Stanley trades as principal in these markets, and, in its role as a dealer and market maker, does not:

- (1) make recommendations or provide advice;
- (2) take orders for FIC Products, except in certain limited product types, such as certain types of transactions in foreign exchange, precious metals and other commodities and in certain offerings, such as U.S. Treasury securities via Rates Fusion; or
- (3) act on an agency or fiduciary basis with respect to any market making transaction, unless specifically agreed with you, and then only where Morgan Stanley acts with discretion in execution (referred to in certain regions and products, such as securities transactions in the U.S., as being on a "not held" basis).

As Morgan Stanley regularly trades as principal in the FIC market in connection with its dealing and market making activities for you and other clients, and to hedge its risk with respect to such activities, Morgan Stanley may transact as a principal in FIC Products at the same time as, or before Morgan Stanley executes trades resulting from your FIC Transaction Request. In addition, and unless Morgan Stanley otherwise agrees with you, the firm



may source liquidity through a variety of means, including internal liquidity, external trading venues or interdealer markets. In addition to Morgan Stanley's own internal market making desks, participants in these venues and markets may include other dealers, market makers, clients and professional trading firms.

#### PRINCIPAL TRADING AND MARKET-MAKING

The FIC markets are predominantly principal markets. Thus, as a market maker, Morgan Stanley typically faces its clients as principal when executing trades resulting from FIC Transaction Requests and does not act as an agent, broker or fiduciary with respect to its market making activity. Accordingly, Morgan Stanley may trade ahead of, alongside or following your transactions: to execute other client transactions (including where such trading is on a systematic, automated basis through the use of algorithms or other execution methodologies); to hedge or source liquidity for market making purposes (either for your transaction, which may include pre-hedging, or in connection with other client activity); to liquidate risk resulting from its client facilitation business; as part of a previously commenced strategy; or to facilitate the purchase and/or settlement of securities issued in debt offerings (including where Morgan Stanley acts as billing and delivery agent). These activities and unrelated Morgan Stanley activity on a principal basis in the same or related FIC Products may impact whether Morgan Stanley executes transactions with you or the prices (including reference prices) of your transactions and/or the time at which your transactions are executed; and may also trigger or delay, or prevent the trigger of, stop loss orders, binary options (such as barriers, knock-ins and knock-outs) or any other events which are dependent on market movements. Morgan Stanley employs reasonably designed means to minimise market impact and stand ready to discuss market pricing and execution levels with you at any time. When Morgan Stanley acts with discretion in executing an order (for example, at "best", or through an order worked over a period of time and subject to parameters agreed with you), Morgan Stanley is not, unless specifically agreed with you, acting as your agent and such order is on a "not held" basis. Morgan Stanley may enter into transactions in the relevant or related instruments through internal sources of liquidity or in the market at different times and prices, including pre-hedging in advance of executing your FIC Transaction Request, in order to offset the risk incurred, and ultimately provide you with an overall fill that takes into account these executions. Unless agreed otherwise, the price of any transaction Morgan Stanley executes with you may include what Morgan Stanley believes to be a reasonable spread, as further described below under "Liquidity Sourcing."

Morgan Stanley may choose to leave a position unhedged or partially hedged, and may adjust any hedge from time to time in its sole discretion. In order to unwind a hedge, Morgan Stanley may need to unwind its position by trading in the relevant or related instruments. As a result, it may be adjusting or unwinding hedge positions before the performance date or time for determination of a benchmark, fixing or other reference price or rate, stop loss level or barrier price contained in your transactions, or its hedging strategy may involve greater and more frequent dynamic adjustments to its hedge as market prices approach such benchmark, fixing or other reference rate, stop loss level, or barrier price. All of the above dealing, market-making, hedging and hedge unwind activities may affect the market price (including reference price) of the relevant

or related instruments, and thus the probability that a particular event as described above will occur. Regardless of whether or how Morgan Stanley chooses to hedge, any profit or loss resulting from any hedging activity will accrue to Morgan Stanley.

When negotiating any particular transaction with the firm, you may ask that Morgan Stanley does not trade as a principal ahead of, or alongside, your transaction, or that the firm execute your instructions in a certain manner, such as through the use of algorithms. Please note that such a request may limit the execution services the firm is able to offer you in any particular case.

#### LIQUIDITY SOURCING

In certain markets, such as foreign exchange and interest rates (including U.S. Treasuries and other sovereign bonds), Morgan Stanley utilises a number of internally developed tools designed to access both external and internal sources of liquidity in order for Morgan Stanley, as principal, to provide what we deem to be the most favorable bids and offers, and executions, reasonably available under the circumstances. These tools may include algorithms, internalization engines and/or smart order routers that route full or partial FIC Transaction Requests to various external liquidity sources, including certain trading venues that electronically provide information to us regarding their available and accessible liquidity. Morgan Stanley may benefit from reduced transaction costs when executing through certain internal or external trading venues and, if we have an investment in, or other relationship with, an external venue, Morgan Stanley may receive other benefits as a result of that interest. In addition, all or a portion of your transaction may be filled by internal sources of liquidity rather than any external trading venues. Either way, unless we agree otherwise, Morgan Stanley will trade in a principal capacity, and your execution levels may be inclusive of what we believe to be a reasonable spread above the price at which Morgan Stanley may transact, or has transacted, with other clients or trading counterparties, in addition to any disclosed fees that may be charged to access particular sources of liquidity. In determining the price on any trade, Morgan Stanley takes into account a number of factors that are described in the Pricing Factors in Annex A to this Appendix I-B. In addition, to the extent Morgan Stanley executes a trade with you through internal sources of liquidity, and that liquidity is sourced from another client, Morgan Stanley may also receive additional compensation on, and fees for, the trade it executes with its other client.

The Firm's receipt of a FIC Transaction Request and any indication Morgan Stanley provides to you that it is "working" on trade execution with you, is its indication that it is willing (but obligated) to enter into all or a portion of a trade at the price requested by you, and Morgan Stanley does not assume any market risk or legal obligation with respect to such FIC Transaction Request until it has agreed to execute a trade with you. At or about the same time that Morgan Stanley receives your FIC Transaction Request, Morgan Stanley may also be executing transactions in similar or related products as a result of its market making activities for other clients and to hedge its risk with respect to these products. More specifically, for bids/offers wanted in competition ("BWICs" and "OWICs"), it is possible that Morgan Stanley may independently submit a bid or offer that is at or above a bid or offer that you have submitted in the BWIC/OWIC without taking your bid or offer

into account. In light of all these activities, Morgan Stanley will exercise discretion as to how it may satisfy your FIC Transaction Request and its other market making activities, including as to timing, prioritization, aggregation and manner of execution, as well as the amount and price of your fill. In all cases, its handling of these requests will be dependent on its ability to access liquidity (such as in the case of “market” or “at best” orders) or liquidity at the relevant or better price (such as in the case of “stop loss” or “limit” orders). In addition, your transaction will likely include what Morgan Stanley believes is a reasonable spread as described above. For “stop loss,” there is a risk, particularly in times of market volatility or stress, that your FIC Transaction Request may be triggered in a manner or at a time that you do not expect (if at all), or at a level that may be worse than you requested. For both “stop loss” and “limit” orders, Morgan Stanley may on notice to you watch these orders at levels that include a reasonable spread and reserves the right to retain all or part of any price improvements in the market, in light of the greater risk it takes in executing such FIC Transaction Requests. This may also impact the amount of your fill. For requests at “market,” any upside or downside fluctuations in the price at the time of execution may be passed to you.

Your FIC Transaction Requests may also be subject to priorities and/or aggregation that Morgan Stanley determines in its discretion that may result in either Morgan Stanley’s own trades or other client trades being executed ahead of, or alongside, any trades it executes with you, which may impact the price of your transactions, the timing of execution and/or the amount of your fill. There may also be inherent latencies at both internal and external venues that result in delays between the time Morgan Stanley receives your requests and the time Morgan Stanley seeks to execute trades resulting from such requests. These latencies and our risk management practices may impact whether Morgan Stanley executes transactions relating to all or a portion of your FIC Transaction Requests and the price at which transactions are executed. For example, Morgan Stanley may reserve a “last look” in order to determine whether there have been any intervening price moves, market disruptions or other unusual market conditions. If Morgan Stanley determines to execute, the costs or benefits of any price changes arising from these risk management practices may, in its discretion, be retained by it or passed on to you. For more information regarding Morgan Stanley’s foreign exchange and precious metals risk management practices, please refer to the section on Foreign Exchange & Precious Metals in Annex B to this Appendix I-B.

When negotiating any particular transaction, you may ask that Morgan Stanley access or avoid specific sources of liquidity in the relevant market. Please note that Morgan Stanley’s ability to facilitate such a request will vary, and may limit the execution services that are ultimately able to be offered to you in any particular case.

#### CLIENT INFORMATION

Protecting the confidentiality and security of client information is an important part of how Morgan Stanley conducts its business. Morgan Stanley also has policies and procedures to assist in the identification, prevention and management of conflicts of interest between Morgan Stanley and you, or between you and another Morgan Stanley client, that may arise in the course of your interactions with Morgan Stanley. Notwithstanding these conflict management policies and procedures, Morgan Stanley

may in certain circumstances disclose to you specific information regarding the source and nature of a particular conflict as well as the steps that are taken to mitigate such conflict.

Morgan Stanley has reasonable controls that are designed to protect your confidential information, both internally (on a “need to know” basis) and externally. This includes client bids submitted in U.S. Treasury (“UST”) auctions and actual or potential transactions in “when issued” UST securities, UST futures and UST swaps. Please be advised that you are obligated to report your net long position to the U.S. Treasury if you bid in an auction for \$100 million or more of UST notes, bills or bonds (“UST Securities”), as required by Section 356.14(d) of Department of the Treasury Circular (the “UST Circular”), and that customer confirmation reporting requirements under Section 356.24 of the UST Circular apply if you are awarded \$2 billion or more in a UST Securities auction.

You should understand that Morgan Stanley does make use of some information contained in FIC Transaction Requests and executed transactions in order to effectuate and risk manage the transactions themselves, as well as for portfolio and inventory risk management purposes. Specifically, and unless you instruct otherwise, Morgan Stanley may use the economic terms of a FIC Transaction Request (but not the client identity) to test liquidity and/or execute trades with one or more third parties (including interdealer brokers) in order to source liquidity. Morgan Stanley may also use the economic terms of various transactions (including market, liquidity and credit risks) on an individual, portfolio, or other basis to evaluate and execute risk-mitigating transactions. In addition, as part of its obligations as a regulated entity, Morgan Stanley also shares client information as requested or required by its global regulators and applicable laws, rules and regulations.

With regard to executed FIC Product transactions, Morgan Stanley analyses this information on an individual and aggregate basis for a variety of purposes, including counterparty, portfolio and inventory risk management, sales coverage, and client relationship management. In addition, Morgan Stanley may analyse, comment on and disseminate anonymised and aggregated information regarding executed FIC transactions, as well as FIC Transaction Requests that may be away from the current market, together with other available information regarding various markets, internally and to its clients as part of its general market commentary and trade ideas.

#### RISK DISCLOSURES (INCLUDING LIBOR & OTHER BENCHMARKS)

You should review important regulatory and other disclosures describing Morgan Stanley’s role as a swap dealer, (including material risks of trading swaps and conflicts of interest, and FID disclosures which are available at Matrix/Disclosures), and in executing orders in exchange-traded funds (ETFs), which are available at <https://www.morganstanley.com/disclosures>. In addition, swap dealer disclosures are available at Matrix/Disclosures and include risks related to LIBOR and other inter-bank offered benchmarks (such as EURIBOR and EONIA) (collectively, “IBORs”), which have been determined to be systemically unsound by the Financial Stability Board due to the limited number of unsecured inter-bank funding transactions. This IBOR risk disclosure is applicable not only to IBOR-linked swaps but also cash and loan products linked to any IBOR.

Additionally, you can access the IBOR risk disclosures, which are included in the ISDA Interest Rate Derivatives Disclosure Annex

(at <https://www.isda.org/a/tE8EE/ISDA-interest-rate-derivatives-disclosure-annex-March-2018.pdf>) on the ISDA website. Morgan Stanley may from time to time post additional IBOR risk disclosures at <https://www.morganstanley.com/disclosures> (see Annex C to this Appendix for the version posted in September 2020).

In light of the risks related to LIBOR, please contact your MSWM financial adviser if you would like to discuss: the IBOR transition; your IBOR transactions with Morgan Stanley; or the possibility of voluntarily converting your outstanding IBOR derivatives or other fixed income products to one of the “risk free rates” recommended by central bank convened committees (including, in the U.S., SOFR which has been recommended by the Alternative Reference Rate Committee, and in the U.K., SONIA, which has been recommended by the Sterling Risk-Free Rate Working Group). Please also contact your MSWM financial adviser if you have any questions regarding the new ISDA IBOR Fallback Protocol that will amend legacy IBOR derivatives to include robust fallbacks to these “risk free rates,” which is expected to be published in the second half of 2020.

If you do not have access to Matrix/Disclosures, please contact your MSWM financial adviser in order to receive such access.

In the case of EONIA, following a recommendation by the ECB Working Group (“ECBWG”) on Risk-Free Rates, EONIA has been re-defined as €STR plus a spread and will cease being published at the end of 2021. This may adversely impact outstanding and new transactions and agreements that are linked to EONIA. For more information regarding the status of EONIA, see ECBWG at [https://www.ecb.europa.eu/paym/initiatives/interest\\_rate\\_benchmarks/WG\\_euro\\_risk-free\\_rates/html/index.en.html](https://www.ecb.europa.eu/paym/initiatives/interest_rate_benchmarks/WG_euro_risk-free_rates/html/index.en.html).



## Annex A to Appendix I-B

# Pricing Factors

The price at which you trade with Morgan Stanley will depend on a number of factors, including those set out below. This list is not exhaustive and Morgan Stanley may take into account other factors that it considers appropriate in determining that price.

(a) The type of product, transaction and market in which the product would be traded, such as:

(i) the trading venue (e.g., single dealer or third party electronic or voice trading platform or exchange);

(ii) the type of FIC Transaction Request (e.g., expression of interest or order, and terms of such request, including “stop loss,” “at best” or “limit”);

(iii) the size, type and direction of the transaction;

(iv) market conditions, including market events, volatility and time of execution;

(v) transparency of the market, including visible liquidity, trading volume and available external venues or platforms; and

(vi) the accessibility of third party quotations and other pricing information;

(b) Internal costs to Morgan Stanley, such as counterparty credit risk, hedging and market risk, funding, capital and overhead;

(c) Client-specific factors, such as: the volume, types of trades and frequency/velocity of trading the client executes both with Morgan Stanley and in the market; credit quality; and potential market impact; and

(d) Applicable regulatory requirements.

## Annex B to Appendix I-B

## Foreign Exchange & Precious Metals

Morgan Stanley provides price quotes to, receives orders from, and executes over-the-counter foreign exchange and precious metals transactions with, its clients on a principal basis (and not as fiduciary or agent unless specifically agreed with you). Unless otherwise agreed with you in writing, all confirmations of

(i) foreign exchange transactions are subject to the 1998 ISDA FX and Currency Option Definitions; and

(ii) precious metals transactions are subject to the 2005 ISDA Commodity Definitions; in each case including all annexes and supplements to such definitions, as in effect on the trade date of any such transactions and regardless of whether such confirmations specifically refer to such definitions.

Foreign exchange and precious metals orders or expressions of interest (“FX/PM Transaction Requests”) may be submitted electronically or by voice or other traditional communication channels, and there is no guarantee that any FX/PM Transaction Request will be filled, in whole or in part. Foreign exchange orders submitted electronically are time stamped upon receipt by Morgan Stanley and voice orders that are not subject to immediate execution are time stamped when input into our order management system.

In the case of either orders or expressions of interest, Morgan Stanley may utilise algorithms, smart order routers and technology which take into account a variety of factors (including, but not limited to, the applicable currency pair, the time zone/region in which an order is submitted, current market conditions, liquidity, order size, historically observed fill rates and other proprietary factors determined to be relevant) and are designed to access external and/or internal sources of liquidity, in order to provide what is deemed to be the fairest bids, offers and executions reasonably available under the circumstances.

Morgan Stanley uses the common industry practice of “last look” which may result in the adjustment of its price quotes prior to execution. This is to protect against losses on trades in circumstances arising from intervening price moves, technical latency, market disruptions and/or unusual market conditions.

### ELECTRONIC QUOTE-BASED TRADING (EFX)

In the case of electronic trading where clients receive streaming foreign exchange and precious metals price quotes, Morgan Stanley’s electronic trading business (“MSET”) applies “last look” trade acceptance parameters to protect against these losses. Trade requests that fail any trade acceptance parameter will be rejected. Morgan Stanley’s default practice is to apply trade acceptance parameters “symmetrically,” i.e., if the price move, regardless of direction, is greater than a specified threshold, your FX/PM Transaction Request will be rejected.

You may request to opt-out of the symmetrical application of these “last look” trade acceptance parameters, thus receiving asymmetric application of these parameters. This choice may increase your

overall trade acceptance rate and narrow the spread of the quotes provided to you.

In addition to applying “last look” trade acceptance parameters to Morgan Stanley’s electronic quotes, Morgan Stanley may, for some counterparties, also apply a hold time. Based on observed quote update times at a number of different electronic trading platforms, Morgan Stanley has determined that 300 milliseconds is currently the maximum hold time that may be configured for any client. Any actual hold time that is applicable will be set out in Morgan Stanley’s FIX trade reject message. This means that the last look trade acceptance checks described above will not occur until the particular hold time period has elapsed. Morgan Stanley applies a hold time solely to evaluate whether an intervening price movement has occurred. Morgan Stanley does not use “last look” or any hold time to “pre-hedge” your transaction requests prior to trade acceptance or rejection.

The trade acceptance parameters and, if applicable, length of hold time, are reviewed periodically and may be adjusted based on your trading activity and Morgan Stanley’s overall risk tolerance.

Morgan Stanley may in its discretion (and unless you request specific instructions and execution methodology) use its electronic trading technology, and apply its trade acceptance parameters, when executing all or a portion of your FX/PM Transaction Requests submitted to its institutional foreign exchange or precious metals desk by voice or other traditional communication channels.

#### **ELECTRONIC ORDER-BASED TRADING (FUSION)**

Foreign exchange and precious metal orders that are submitted electronically, which may include algorithmic order types such as volume-weighted-average-price and time-weighted-average-price orders, may be filled by Morgan Stanley accessing

- (1) external market centers in the relevant foreign exchange or precious metals markets (including but not limited to, trading platforms, inter-dealer brokers and 3rd party matching venues),
- (2) Morgan Stanley’s internal market making desk as a liquidity provider, or
- (3) Morgan Stanley’s internal matching engines. If requested, you may opt out of interacting with Morgan Stanley’s internal market making desk, matching engines and/or certain external FX market centers.

When Morgan Stanley sources liquidity from external market centers, the price received from the external market center, plus a pre-agreed fee, is the price at which Morgan Stanley executes its principal trade with you (i.e., ‘print for print’) These external market centers may apply their own “last look” trade acceptance parameters to any trade request Morgan Stanley seeks to execute in order to fill your order with liquidity from these market centers.

Morgan Stanley only sources liquidity for Fusion orders from its internal market making desk, as a liquidity provider, when the all-in price of a trade will achieve executions at prices which Morgan Stanley believes are equal to or better than the prices visible to it on internal or external FX or precious metals market centers (inclusive of any pre-agreed fee). When Morgan Stanley acts as a liquidity provider, your execution is not related to a specific external market execution. Unless explicitly pre-agreed with you, these executions for Fusion orders are provided on an “all-in” basis, and no additional execution fees apply.

When Morgan Stanley sources liquidity internally as the operator of a matching mechanism, Morgan Stanley only does so when the price of a trade will achieve executions at prices which it believes are comparable to those visible to it on external FX or precious metals market centers. These executions are subject to Morgan Stanley’s pre-agreed fee.

MSET offers clients the ability to have their open Fusion orders visible only to personnel in Morgan Stanley’s MSET foreign exchange and interest rate (“Macro”) business. This “limited visibility” is the default configuration and clients may request that their orders be seen more broadly across our Macro sales and trading business.

Regardless of a client’s configuration, personnel in Macro business management, legal, compliance, risk management, technology and other support functions may obtain access to live client order data. In addition, if a significant market disruption or business continuity event were to occur, any “limited visibility” of open Fusion orders may temporarily and without notice be expanded to other personnel in the Macro business, so that Morgan Stanley may continue to manage live orders during the occurrence of such event.

#### **BENCHMARK ORDERS**

Foreign exchange benchmark orders for the WM Reuters (“WMR”) fix may be submitted by voice or electronically and are executed at the benchmark price plus either

(a) the published WMR bid/offer or

(b) an agreed fee which in either case is embedded in the all-in rate that is communicated to you after the relevant fixing is published.

Precious metals benchmark orders, such as the IBA LBMA Gold and Silver Price Auctions, are only available in limited circumstances where agreed with you in advance. Morgan Stanley participates in the IBA LBMA Gold and Silver Price Auctions and, where such an order is taken, you will be filled at the relevant LBMA Gold or Silver Price plus a pre-agreed fee.



Annex C to Appendix I-B

## Notice to Clients Regarding LIBOR Risks and Global Benchmark Reform

September 2020

While the risks highlighted in this notice focus on LIBOR, they are likely to also be relevant to other benchmarks that are, or may be, subject to proposals for reform or discontinuation.

Regulators around the world have stated that LIBOR in all its currencies (USD, GBP, EUR, JPY and CHF), as well as certain other interest rate benchmarks (e.g., EONIA), will likely cease to be published and be replaced by alternative reference rates or will be subject to significant reform (including to their calculation and/or publication methodology).

In particular, LIBOR is expected to stop being published after the end of 2021 and may be subject to a public statement or published information by its regulator, the U.K. Financial Conduct Authority (FCA), announcing that the FCA has determined that LIBOR is no longer, or as of a specified future date will no longer be, representative of the underlying market that LIBOR is intended to measure. The timing of any announcement by the FCA and/or any actual cessation or non-representativeness event in relation to LIBOR is unclear and may vary for different LIBOR currencies and/or tenors.

If LIBOR is determined to be no longer representative of its underlying market, the FCA may take action to procure the continued publication of LIBOR (or certain currencies and/or tenors of LIBOR) after the end of 2021 with a substantially revised methodology (sometimes referred to as “synthetic LIBOR”), solely for use in “tough legacy” contracts (i.e., contracts that cannot realistically be amended before the end of 2021, which may be defined in more detail by the FCA). The precise methodology for any synthetic LIBOR is not yet known, and it is not known whether there will be any product or other restrictions to its potential use among legacy contracts. In addition, the impact of a synthetic LIBOR on contracts, particularly those not governed by English law and/or where one or more parties are not regulated entities in the U.K., may require an analysis of the governing law and applicable regulatory obligations of the parties. Market participants should consult their legal advisors in order to assess this impact.

The market transition away from LIBOR to alternative reference rates is complex and could have a range of impacts on financial products, transactions and services that reference LIBOR as a benchmark (whether for the payment of interest or other amounts, or for discounting or other calculations).

**In light of these risks, clients should consider actively transitioning contracts away from LIBOR, wherever possible, and consider the appropriateness of entering into new LIBOR transactions (or extending/renewing existing LIBOR transactions) with maturity dates beyond the end of 2021, taking into account their own circumstances and in consultation with their own professional advisors, including in relation to financial, legal, regulatory, tax and accounting matters.**

In particular, relevant risks include (but are not limited to) the following:

**RISKS RELATED TO LIBOR**

- Any permanent cessation or non-representativeness determination in relation to LIBOR (or announcement thereof) may adversely impact the pricing, liquidity, value, return and trading of a broad array of financial products, including LIBOR-linked securities, loans, derivatives and consumer products.
- Market and/or regulatory developments prior to any permanent cessation of LIBOR may result in LIBOR performing differently than in the past (e.g. its liquidity and/or volatility may change). In particular, central bank sponsored committees (ARR Committees) in the U.S. and the U.K. have issued target milestones to encourage the transition away from LIBOR by the end of 2021, including target dates to cease trading of new LIBOR-referencing products (including derivatives and cash products) over the course of 2021. As those dates are approached, the liquidity of LIBOR and the pricing of LIBOR-referencing products may change materially.
- Changes to the calculation methodology implemented for any synthetic LIBOR are expected to be significant and thus likely to significantly impact the economics of outstanding transactions for which a synthetic LIBOR is used. Regulators globally have discouraged market participants from relying on the publication of a synthetic LIBOR, as
  - (i) it may not be feasible in all circumstances and/or for all currency and tenor pairs,
  - (ii) parties who rely on synthetic LIBOR will not have control over the economic terms of their contracts and
  - (iii) the methodology of a synthetic LIBOR may not be the same as the preferred structures expected to prevail for new transactions based on the alternative reference rates.
- Synthetic LIBOR may not be recognized as a contractual continuation rate under all governing laws or may require local legislation in order to be so recognized. In addition, there is no guarantee that legislative initiatives currently being contemplated in different jurisdictions (e.g., the U.S., U.K. and E.U.) will have the same scope of application or result in the same outcome or timing for similar financial products (e.g., USD LIBOR products whose contracts are governed by the laws of different jurisdictions such as New York or the U.K.). As a result, assuming the passage of legislation or that it will be consistent across jurisdictions may not result in the desired outcome.
- Existing or future regulations may materially limit the ability of market participants to enter into new transactions, products or services linked to LIBOR if it is determined to be no longer representative of its underlying market by the FCA or if other regulatory action is taken.

**RISKS RELATED TO THE ALTERNATIVE REFERENCE RATES**

- Alternative reference rates chosen by ARR Committees to replace LIBOR in each currency have different characteristics (in particular, unlike LIBOR, they are overnight “risk free” rates (RFRs) that do not embed a forward looking term structure or credit risk premium). As a result, they may perform materially differently than LIBOR and/or may not gain universal market acceptance in one or more asset classes due to these differences in composition and characteristics. In addition, there can be no assurance that ARR Committees will recommend term RFRs

and, even if they do, such term RFRs may not include a credit risk premium or be suitable for all asset classes.

- Replacing LIBOR with the RFRs (either through the inclusion of fallbacks or active conversions to the RFRs) may not be economically equivalent (even after the inclusion of industry-standard adjustment spreads), and therefore may result in contracts or instruments not performing in the same way as when linked to LIBOR and/or having lower secondary market liquidity, which may adversely impact their value, pricing, or return.
- Alternative reference rates (in particular, SOFR and ESTR, but also SONIA for certain products and markets) have a limited history and their future performance may not be capable of being predicted based on historical performance. Spread adjustments and market conventions regarding the use of these RFRs in different products and currencies are still being developed and may change over time.
- New reference rates may be developed over time and may be different from and compete for liquidity with the RFRs recommended by the ARR Committees to replace LIBOR.
- The administrators of the RFRs may make changes to their calculation methodology over time, which may adversely impact the value and/or liquidity of instruments linked to them.

**RISKS RELATED TO CONTRACTS, SYSTEMS AND OPERATIONAL PROCESSES**

- Existing contractual terms may not adequately provide for the occurrence of a permanent cessation or non-representativeness determination in relation to LIBOR (or a future announcement thereof). For example, standard ISDA derivative contracts and bonds/notes typically include fallbacks that were designed at a time when market participants did not contemplate a permanent cessation of LIBOR, e.g., dealer poll and/or fallback to the last LIBOR fixing. Such fallbacks may result in increased uncertainty (e.g., dealer polls may not result in a sufficient number of quotes) and/or lack of market pricing transparency, and may materially change the economics of the contract (e.g., a last LIBOR fixing would convert a floating rate instrument into fixed rate).
- As a result, the transition away from LIBOR may require extensive modification of the contractual terms (including any fallback terms) of existing products or services, which may involve time-consuming renegotiations among multiple parties, particularly for products where there may be no industry protocols (such as the ISDA 2020 IBOR Fallbacks Protocol for derivatives) to facilitate the transition.
- There may be a population of LIBOR-linked products that cannot be amended due to an inability to obtain sufficient consent from counterparties or product owners. For example, bonds and notes linked to LIBOR typically involve high noteholder consent requirements, while structured transactions that involve one or more asset class (such as bonds, loans and/or swaps) may require the consent of multiple classes of creditors whose interests may differ from each other.
- The occurrence of a permanent cessation and/or non-representativeness determination in relation to LIBOR (or any announcement thereof) may lead to Morgan Stanley exercising discretion to determine a replacement rate, spread and other adjustments to contractual terms. Any such determination made

by Morgan Stanley, while exercised in good faith and taking into account relevant market practice where available, may be inconsistent with, or contrary to, your interests or positions.

- New industry RFR fallbacks, such as those recommended by ARR Committees and the ISDA 2020 IBOR Fallbacks may change the operational mechanics and/or economics of financial products. The ISDA 2020 IBOR Fallbacks Protocol may have even more of an operational and/or economic impact on non-linear products, such as swaptions and interest rate caps and floors, as well as certain other non-derivative products that it covers, such as repurchase, stock lending, equities financing and commodities transactions. In addition, these new industry RFR fallbacks involve uncertainty regarding the timing and fixing of the adjustment spread, which will depend upon the actions of LIBOR's administrator and/or regulator. As a result, active transition of existing financial contracts in advance of any non-representative determination or permanent cessation reduces these risks.
- Furthermore, LIBOR fallback provisions (regardless of whether they are new or legacy provisions) may vary across products and regions. New LIBOR fallbacks for different products are being developed by the relevant trade associations in each region at different speeds and may differ in scope, economics and operational mechanics. Industry and regulatory guidance regarding different products in each currency LIBOR is also being made available at different times. As a result of such differences in new and legacy LIBOR fallback provisions, as well as the pace of transition across products, currencies and regions, there may be economic mismatches between instruments, e.g., a bond or a loan referencing LIBOR and a related derivative transaction intended to operate as a hedge.
- In addition to contractual changes, the replacement of LIBOR with alternative reference rates may require significant modifications and/or development of systems, models and other analytics (including by 3rd party vendors) to effectively transition risk management processes and firm systems from LIBOR to RFRs in a timely manner. In particular, interest and other amounts linked to the RFRs may be determined at or around the end of an applicable calculation period, such as in the case of RFR derivatives which follow the conventions of OIS markets, whereas those linked to LIBOR are typically determined at the start of the applicable calculation period.
- The replacement of LIBOR in existing contracts, as well as the introduction or modification of fallback terms, may lead to additional tax, accounting and regulatory impact or risk, which may vary across jurisdictions and products. Some relief and/or official guidance to ensure the continued grandfathering of trades from applicable tax, accounting and regulatory requirements has been granted and further relief and/or guidance is being considered in each of the major jurisdictions (including the U.S., E.U. (or its member states), U.K. and Japan). Clients should consider the applicability of tax, accounting and regulatory risks to their own circumstances, as well as the availability of any relevant relief, in consultation with their own professional advisors.

- The retention of LIBOR in existing contracts, particularly as we approach the end of 2021 and beyond, could also lead to additional tax, accounting and regulatory risk. For example, regulators and relevant industry bodies may look to apply more conservative and/or cumbersome requirements (including on tax, accounting, capital and other regulatory requirements) in order to encourage the transition away from LIBOR. Clients should consider these risks and weigh them against any risks arising from replacing LIBOR in existing contracts, in consultation with their own professional advisors.

This disclosure has been prepared solely for informational purposes and is not a recommendation, offer, or a solicitation of an offer, to buy, sell, borrow, or loan any security or financial instrument or to participate in any particular trading strategy. This disclosure is also not intended to constitute advice of any kind, including on accounting, audit, tax, legal, regulatory or investment matters. Morgan Stanley assumes no responsibility for, and makes no representation or warranty regarding, the information contained in this disclosure, including its accuracy, completeness, suitability, or timeliness. Morgan Stanley assumes no duty to update the information. You assume all risks in relying on the information.

#### LINKS TO KEY LIBOR TRANSITION RESOURCES:

##### ARR COMMITTEES IN U.S., U.K., E.U. AND JAPAN

- Alternative Reference Rates Committee  
(see <https://www.newyorkfed.org/arrc/index.html>)
- Euro Risk Free Rates Working Group  
(see [https://www.ecb.europa.eu/paym/initiatives/interest\\_rate\\_benchmarks/WG\\_euro\\_risk-free\\_rates/html/index.en.html](https://www.ecb.europa.eu/paym/initiatives/interest_rate_benchmarks/WG_euro_risk-free_rates/html/index.en.html))
- Sterling Risk Free Rates Working Group  
(see <https://www.bankofengland.co.uk/markets/transition-to-sterling-risk-free-rates-from-libor>)
- Cross-Industry Committee on Japanese Yen Interest Rate Benchmarks  
(see [https://www.boj.or.jp/en/paym/market/jpy\\_cmte/index.htm/](https://www.boj.or.jp/en/paym/market/jpy_cmte/index.htm/))

##### ISDA

- Benchmark Reform and Transition from LIBOR  
(see <https://www.isda.org/2020/05/11/benchmark-reform-and-transition-from-libor/>)
- IBOR Alternative Reference Rates Disclosure  
(see <https://www.isda.org/a/UE8EE/IBOR-Alternative-Reference-Rates-Disclosure-March-2018.pdf>)



## Appendix II

# Client Specific Disclosures

### 1. NOTICE TO CLIENTS INCORPORATED OR RESIDENT IN AUSTRALIA

Where you are incorporated or resident in Australia, become registered or resident in Australia or otherwise receive the Services whilst in Australia:

#### 1.1 AFSL AND ASIC INSTRUMENTS

**1.1.1** MSWM is the holder of an AFSL and is appropriately authorised to provide financial services to Australian resident clients. Accordingly, where MSWM provides 'financial services' (for the purposes of the Corporations Act) to you, it will do so as principal under its AFSL. MSWM does not itself operate Accounts for clients, and your Accounts will be operated by MSIP outside Australia. If you have questions or concerns regarding the Services provided to you by MSWM, please contact your MSWM financial adviser in the first instance.

**1.1.2** Where MSIP or any of Morgan Stanley's Associated Firms (for the purposes of this Notice, each an "Exempt Provider") provide 'financial services' to you under the Customer Agreement, they will do so in reliance upon AFSL exemptions under a legislative instrument made by ASIC or relevant ASIC class order.

#### 1.2 WHOLESALE CLIENT STATUS

**1.2.1** A Wholesale Client for the purposes of the Corporations Act includes:

(i) clients who acquire the financial product or financial service where the price of the financial product or value of the financial product to which the financial service relates, equals or exceeds AUD500,000,

(ii) clients who acquire the financial product or financial service where it is for use in the course of business that is not a small business (i.e. a small business that employs less than 100 people if the business is or includes the manufacture of goods, or that employs less than 20 people in all other cases),

(iii) a professional investor (i.e. a holder of an AFSL, a body regulated by the Australian Prudential Regulatory Authority, a trustee of superannuation products with more than AUD10,000,000 in assets, a person having or controlling more than AUD10,000,000 in gross assets (including assets held by an associate or on trust),

(iv) a listed entity (and its related bodies corporate)),

(v) a person certified by a qualified accountant who has net assets of at least AUD2,500,000 or gross income for each of the last two financial years of at least AUD250,000, or

(vi) a body that carries on a business of investment in financial products, interests in land or other investments and, for those purposes, invests funds received (directly or indirectly) following an offer or invitation to the public.

**1.2.2** The Exempt Providers intend to provide 'financial services' or to make offers of 'financial products' only to persons who are Wholesale Clients.

**1.2.3** You represent and warrant that you are a Wholesale Client and shall provide MSWM with any supporting documentation or evidence of such status requested by it. You acknowledge that neither MSWM nor any Exempt Provider is under any obligation to provide Services where the requested confirmations, supporting documentation or evidence have not been provided to its satisfaction.

**1.2.4** You acknowledge that MSWM and/or the Exempt Providers will no longer be able to provide Services to you if your Wholesale Client status changes, and you agree to notify MSWM immediately in writing if your status has changed or any representation, warranty or statement made by you or on your behalf in the confirmations or any supporting documentation or evidence is or becomes incorrect or misleading during the term of the Customer Agreement.

**1.2.5** You acknowledge and agree that where you are no longer a Wholesale Client, the Customer Agreement will terminate in accordance with Clause 35 (*Termination*).

### 1.3 AGREEMENTS

**1.3.1** Your execution of the Customer Agreement constitutes an offer to contract with relevant Exempt Providers on the terms of the Customer Agreement. A contract arises under the Customer Agreement at the time, and is made at the place outside Australia, where MSIP executes the Customer Agreement or otherwise accepts your offer to contract. You hereby waive any right to communication of acceptance to the extent necessary to ensure the contract is made at the time and place of MSIP's execution or other acceptance.

**1.3.2** All terms, conditions, warranties and statements, whether express, implied, written, oral, collateral, statutory or otherwise, are excluded by Morgan Stanley, and Morgan Stanley disclaims all liability in relation to these, to the maximum extent permitted by Applicable Regulation.

**1.3.3** In addition to the Customer Agreement, MSWM may also require you to complete or provide additional documents which are specific to the Services that MSWM will provide to you (for the purposes of this Notice, "MSWM Documents"). In the event of any inconsistency between the Customer Agreement and the MSWM Documents, the Customer Agreement will prevail in respect of the Services provided to you by MSWM pursuant to the Customer Agreement.

**1.3.4** MSWM's Australian privacy policy, which sets out MSWM's practice in managing personal information (including how you may access Your Information and seek its correction, and how you may complain about a breach of the Australian Privacy Principles and how MSWM will deal with your complaint), can be accessed at its website located at [www.morganstanley.com.au](http://www.morganstanley.com.au) or obtained from your MSWM financial adviser.

### 2. NOTICE TO CLIENTS INCORPORATED OR RESIDENT IN HONG KONG

Where you are incorporated or resident in Hong Kong, become registered or resident in Hong Kong or otherwise receive the Services whilst in Hong Kong:

**2.1** You represent and warrant that you are a 'professional investor' as defined in the SFO and you shall provide Morgan Stanley with any supporting documentation or evidence of such status requested by Morgan Stanley.

**2.2** By signing the Customer Agreement, you will be deemed to have elected English as your preferred language in which to receive the Customer Agreement and all other agreements, notices and communications to you from Morgan Stanley.

若閣下簽署客戶協議，即代表閣下選擇以英文為首選語言。日後一切客戶協議以及所有其他協議、通知及通訊，我方皆以英文版本送出。

**2.3** As MSWM will provide you with a statement of Transactions and trade confirmations in respect of Transactions executed by MSWM and cleared and settled by MSIP in accordance with the FCA Rules, you acknowledge that you will not receive any contract notes, statements of account or receipts which have been prepared in accordance with the requirements under the Securities and Futures (Contract Notes, Statements of Account and Receipt) Rules, as amended (Cap. 571Q) of Hong Kong.

**2.4** If you are a licensed or registered person under the SFO, you represent and warrant that you, as a licensed or registered person, are dealing in relation to the Customer Agreement either:

(i) only for your own account and not for the account or accounts of any of your clients; or

(ii) only for the account or accounts of any of your clients and not for your own account.

### 3. NOTICE TO CLIENTS INCORPORATED OR RESIDENT IN THE PRC

Where you are resident in the PRC, become resident in the PRC or otherwise receive the Services whilst in the PRC:

**3.1** By signing the Customer Agreement, you will be deemed to have elected English as your preferred language in which to receive the Customer Agreement and all other agreements, notices and communications to you from Morgan Stanley.

若閣下簽署客戶協議，即代表閣下選擇以英文為首選語言。日後一切客戶協議以及所有其它協議、通知及通訊，我方皆以英文版本送出。

**3.2** Without limiting the generality of Clause 2.13 (*Compliance with Foreign Exchange Regulations*) of the General Terms, if you are:

(i) a natural person and you hold a resident identity card, a passport or other lawful identity certificate of the PRC, or

(ii) a natural person who has no legal identity of the PRC but habitually resides inside China due to reasons of economic interests and who is a shareholder of a special purpose vehicle or SPV established outside China as provided in the Notice of the State Administration of Foreign Exchange on Relevant Issues concerning Foreign Exchange Administration for Domestic Residents to Engage in Financing and in Return Investment via Overseas Special Purpose Companies which was published by the State Administration of Foreign Exchange ("SAFE") on 21 October 2005, as amended from time to time (the "SAFE Circular"), you confirm that:

**3.2.1** you are aware of and fully understand the relevant regulations and rules in relation to foreign exchange control in the PRC, in particular, the provisions contained in the SAFE Circular;

**3.2.2** the payments you make to Morgan Stanley under the Customer Agreement or in relation to any Transaction are not from monies received by you from the profits, dividends or payments from

capital reduction of a special purpose company which is established outside the PRC for the purpose of equity financing (including convertible bond financing), as provided in the SAFE Circular; and

**3.2.3** the payments you make to Morgan Stanley under the Customer Agreement or in relation to any Transaction are not and will not be subject to any restriction or remittance obligation under the relevant PRC regulations and rules, in particular, the SAFE Circular.

#### **4. NOTICE TO CLIENTS INCORPORATED OR RESIDENT IN SINGAPORE**

Where you are incorporated or resident in Singapore, become registered or resident in Singapore or otherwise receive the Services whilst in Singapore:

**4.1** You represent and warrant that you are an ‘accredited investor’ or ‘institutional investor’ as defined in the Securities and Futures Act (Cap. 289) of Singapore and you shall provide Morgan Stanley with any supporting documentation or evidence of such status requested by Morgan Stanley.

**4.2** By signing the Customer Agreement, you will be deemed to have elected English as your preferred language in which to receive the Customer Agreement and all other agreements, notices and communications to you from Morgan Stanley.

若阁下签署客户协议，即代表阁下选择以英文为首选语言。日后一切客户协议以及所有其它协议、通知及通讯，我方皆以英文版本送出。



## Appendix III

# Service Specific Disclosures

### 1. NOTICE TO INVESTORS OR PROSPECTIVE INVESTORS IN THIRD PARTY MUTUAL FUNDS

With regard to any mutual fund that is not established by Morgan Stanley or any Associated Firm (a “Third Party Mutual Fund”) and which is offered or made available to you pursuant to the Customer Agreement, you agree and acknowledge:

**1.1** The Offering Documents sent to you in relation to a Third Party Mutual Fund and investments therein are prepared by that Third Party Mutual Fund and/or other third parties. Morgan Stanley has not and will not examine or verify any of the information in such Offering Documents, and accordingly Morgan Stanley makes, and will make, no representation that such Offering Documents are accurate or complete or that any returns will be achieved. Past performance is not necessarily indicative of future results. Morgan Stanley disclaims any liability relating to such Offering Documents, including any express or implied representations or warranties for statements or errors in, or omissions from, such Offering Documents. Opinions and information are subject to change without notice. Morgan Stanley does not undertake nor does Morgan Stanley have any responsibility to notify you of any changes to the Offering Documents. Morgan Stanley shall not be liable to you for any loss you suffer as a result of your investment in any Third Party Mutual Fund.

**1.2** The Offering Documents are confidential and are for viewing solely by the addressee who is a person or persons designated and authorised by Morgan Stanley. The Offering Documents should not be photocopied, printed or otherwise reproduced or redistributed in whole or in part, by mail, facsimile, email or by any other means, to any other person.

**1.3** The Offering Documents are provided to you for information purposes only and are not an offer (or solicitation of an offer) to buy/sell or borrow/lend the investments mentioned or to participate in any particular trading strategy. Morgan Stanley and its employees may deal as principal in, or own, or act as market maker for, securities or instruments mentioned in the Offering Documents (or derivatives on them) and may also provide or seek to provide advice or investment services, including investment banking services, to the issuers of such securities or instruments. The securities or instruments described may not be available for purchase or sale in certain jurisdictions.

**1.4** Morgan Stanley is not, and will not be, acting as a fiduciary for you in connection with any investment you make in a Third Party Mutual Fund. By sending you the Offering Documents, Morgan Stanley is not attesting to, or otherwise making any representation regarding, your legal qualification under Applicable Regulations to invest in the Third Party Mutual Fund. The Offering Documents do not provide individually tailored investment advice and are being provided to you without regard to the particular financial circumstances and investment objectives of each recipient. The securities or instruments referred to in the Offering Documents

may not be suitable for all investors. You must make your own investment decisions based on your own financial circumstances and investment objectives, after evaluating each issue or strategy and after consulting any tax, legal or other advisers you believe necessary.

**1.5** If you place an order with Morgan Stanley to invest in a Third Party Mutual Fund, Morgan Stanley will be entitled to assume that you have accepted and agreed to comply with the terms and conditions to which you and/or your investment in such Third Party Mutual Fund may be bound, including without limitation any requirement imposed by the relevant Offering Documents including any suitability requirements and eligibility restrictions, or with any underlying commitment or obligation inherent to an investment in such Third Party Mutual Fund.

**1.6** Morgan Stanley may not be an agent or distributor for the Third Party Mutual Fund. If you decide to make an investment in the Third Party Mutual Fund, Morgan Stanley may instruct an External Custodian to subscribe for the investments on your behalf. Morgan Stanley may provide the External Custodian with customer information and documentation required to enable the External Custodian to make the subscription in the Third Party Mutual Fund.

**1.7** A front end load or initial charge of up to 2% may be added to the price of your investment in a Third Party Mutual Fund. In addition, for so long as you remain an investor in a Third Party Mutual Fund, Morgan Stanley will receive the ongoing annual fees payable by that Third Party Mutual Fund to distributors. The level of these fees will vary according to each Third Party Mutual Fund and will range from 10 basis points to 200 basis points of the value of your investment in the Third Party Mutual Fund. Please refer to Clause 10.1 (*Composition of Charges*) of the General Terms in relation to fees, commissions, charges, and other monetary and non-monetary benefits Morgan Stanley may receive. The prospect of receiving, or the receipt of, the fees described above may provide Morgan Stanley with:

- (i) interests that potentially or actually conflict with your own in respect of your investment in the Third Party Mutual Fund and;
- (ii) an incentive to favour sales of investments of the Third Party Mutual Fund over sales of shares/units/interests of other alternative mutual funds with respect to which Morgan Stanley do not receive such compensation, or receive lower levels of compensation.

**1.8** The Offering Documents may not be distributed in any jurisdiction where it is unlawful to do so. The investments described in the Offering Documents may not be marketed or sold or be available for offer or sale in a number of jurisdictions where it is unlawful to do so. The trademarks and service marks in the Offering Documents are the property of their respective owners.

**2. NOTICE TO INVESTORS OR PROSPECTIVE INVESTORS IN PLACINGS (EACH A "PLACING") BY ONE OR MORE THIRD PARTIES NOT RELATED TO THE MORGAN STANLEY COMPANIES (EACH A "VENDOR") OF CERTIFICATES OF DEPOSIT ("CD"), EURO-COMMERCIAL PAPER ("ECP") OR OTHER SECURITIES ISSUED BY A BANK OR A COMPANY (EACH A "COMPANY") (INCLUDING SHARES IN THE FORM OF TIER ONE CAPITAL AND DEBT SECURITIES) (COLLECTIVELY "SECURITIES")**

Morgan Stanley anticipates entering into one or more Placings by one or more Vendors with you that will be governed by this Appendix III and a trade confirmation to be issued by Morgan Stanley to you to in respect of, and to confirm each successful Placing.

Each Placing will be undertaken on the following terms, and each of the representations, warranties, acknowledgements and agreements below is deemed to be repeated and made at the time of each Placing:

**2.1** In connection with a Placing, your oral agreement to purchase Securities of a Company in such Placing will be an absolute, binding and irrevocable commitment, not subject to any rights of rescission for any reason whatsoever or howsoever, whether for breach of warranty, any event of force majeure or by reason of changes in market conditions or political events, or otherwise. Any right to terminate or rescind your commitment hereunder by operation of law or otherwise is excluded to the fullest extent permitted by law.

**2.2** With respect to each oral agreement described in Clause 2.1 of this Appendix III above, Morgan Stanley may in its discretion and on a best efforts basis, place an order on your behalf with the Company, its underwriters or other intermediary for the amount of securities requested. Such order shall be subject to the terms of this Appendix III and any confirmation or supplement hereto. In placing the order, Morgan Stanley shall be entitled to assume that you have accepted and agree to comply with all terms and conditions to which you and/or the Securities offering may be bound as more fully described in this Appendix III. With respect to any particular Placing, whether before or after allocation, Morgan Stanley may ask you to enter into a supplement to this Appendix III or send you a written notice amending this Appendix III on such terms as Morgan Stanley see fit. If required by Morgan Stanley, you will sign the supplement or provide prompt written acknowledgement of such notice. For the avoidance of doubt, each such supplement or notice shall be binding on you whether or not it has been signed or acknowledged by you.

**2.3** With respect to each order placed by Morgan Stanley on your behalf, Morgan Stanley gives no assurance that any order will be accepted by the Company, its underwriters, the Vendor or any other intermediary and that even if such order is accepted, no assurance is given that you will be given any allocation. Any order that Morgan Stanley places on your behalf will be entirely at your own risk.

**2.4** In particular, you are reminded, and you acknowledge, that it is your duty to ensure that each of the representations, warranties, acknowledgements and agreements ("Representations") made by you in this Appendix III is true and accurate at the time of each Placing in light of your own knowledge of the circumstances and details in the relevant placing document (if any), including the representation that you are independent and are not a "connected person" of each Placing as set forth in Clause 2.23 of this Appendix III below. Any breach of the Representations may affect your allocation. If in doubt, you should seek independent advice before making a subscription.

**2.5** Morgan Stanley will rely upon the truth and accuracy of the representations, warranties, acknowledgements, agreements, covenants and confirmations made by you in this Appendix III.

**2.6** Except for any liability which cannot by law be excluded, neither Morgan Stanley, nor the Vendor, nor any of its related bodies corporate, nor any of their respective directors, officers, employees or advisers, or any of their respective related bodies corporate, accept any responsibility in relation to the Placing.

**2.7** Unless Morgan Stanley has specifically advised you in respect of the Placing, Morgan Stanley is subscribing for the Securities entirely upon your unsolicited request. The Representations made by you in this Appendix III shall survive delivery of any payment for the Securities with respect to a Placing. You further acknowledge and confirm that the Representations made by you in this Appendix III shall be repeated on each and every day when an oral conditional contract is concluded between you and Morgan Stanley in respect of a Placing, on the date of the applicable trade confirmation and on the closing date of such Placing. You further undertake to promptly disclose to or inform Morgan Stanley upon your becoming aware of any matter, event or circumstance which may arise or become known to you before a contract is concluded between you and Morgan Stanley in respect of a Placing, which constitutes a breach of, or is inconsistent with any of the Representations made by you in this Appendix III. Where the Account is a joint Account, or where you are acting as agent for another person, all the terms of this Appendix III shall apply to all the joint Account holders jointly and severally, and to that other person.

**2.8** Time is of the essence in relation to the agreement constituted by your acceptance of the Placing.

**2.9** You acknowledge that Morgan Stanley may receive a rebate from the Vendor or its affiliates for subscribing to the Securities on your behalf.

#### **GENERAL REPRESENTATIONS AND WARRANTIES**

**2.10** You have performed your own due diligence in respect of the Company, the Vendor and the Placing, insofar as you considered it appropriate and necessary for the purposes of your investment in the Placing, and you have independently determined the suitability and appropriateness of an investment in the Securities in light of your investment objectives and risk appetite, and you have sought as necessary associated tax, legal and accounting advice. Accordingly, unless Morgan Stanley has specifically advised you, your decision to apply for the Securities has been made independently and without any assistance or recommendation from Morgan Stanley. You acknowledge that Morgan Stanley is not acting as a fiduciary to you in respect of the Placing and that Morgan Stanley has not provided any information in connection with the Placing other than to provide you with such documents, if any, as Morgan Stanley may provide to you in connection with the Placing as provided to Morgan Stanley by the Company or the Vendor. Unless Morgan Stanley has specifically advised you in respect of the Placing you acknowledge Morgan Stanley has not made any comment or recommendation relating to the Company, the Placing or the expected performance of your investment in the Securities. Morgan Stanley has not reviewed, verified or performed any analysis of the Company, the Placing or any information contained in any documents provided by a Vendor or Company. Morgan Stanley disclaims liability for any information contained in any such documents or any other information provided by any party (including, without limit, the Company, the Vendor or any of their affiliates) in connection with the Placing. Although you may

in the past have received research materials regarding a Company from Morgan Stanley, you acknowledge that such materials were prepared and distributed by Morgan Stanley acting other than in its role in connection with the Placing, do not constitute part of any selling effort in connection with the Placing and shall not, and nor shall any other information supplied to you by Morgan Stanley, be construed as a recommendation to you or any other person to purchase the Securities.

**2.11** You will acquire the Securities for the purposes of investment and you have received all the information you believe is necessary or appropriate in connection with such acquisition.

**2.12** Where no Offering Document or other disclosure document has been prepared in connection with the Securities, you understand that no such document will be provided to you and that Morgan Stanley has not provided, and will not be providing, you with any other materials regarding the Securities or the Company prepared by the Vendor or any other person; and you have not requested and will not request Morgan Stanley to provide you with any such information, although if the Securities are listed on an Exchange, you are able to obtain or access certain business and financial information published by the Vendor and/or Company in accordance with the rules and practices of such Exchange without undue difficulty.

**2.13** If you received an Offering Document or other disclosure documents by email, you confirm that you have consented to delivery of such documents by electronic transmission.

**2.14** You acknowledge that Morgan Stanley has not performed any risk assessment nor has Morgan Stanley, unless Morgan Stanley has specifically advised you in respect of the Placing, considered the suitability of the Placing in light of your investment objectives and risk tolerance, and that Morgan Stanley has not examined or verified any document provided by the Company or any member of the underwriting syndicate. You have not relied on any investigation that Morgan Stanley or any of its affiliates or any persons acting on their behalf may have conducted with respect to the Securities or the Vendor or the Company, and none of such persons has made any representation to you, express or implied, with respect to the Securities or the Vendor or the Company.

**2.15** You understand that:

(i) it is possible that, under US tax laws, the Securities may constitute an equity interest in a passive foreign investment company ("PFIC") (within the meaning of Section 1297(a) of the US Internal Revenue Code of 1986, as amended) in any taxable year,

(ii) neither the Vendor nor Morgan Stanley intends to assess whether the Securities constitute equity interests in a PFIC in any taxable year or to provide such information as may be required for you to make a "qualified electing fund" election with respect to the Securities, and

(iii) you are advised to consult with your own tax advisors concerning the impact of any legislation, proposed or enacted that could affect the application of the PFIC rules.

**2.16** You will not hold Morgan Stanley or any of its affiliates or its respective employees responsible for any misstatements in or omissions from any publicly available information concerning the Company, the Vendor, the Securities or any Offering Document or other disclosure document issued by the Vendor or any other person, if any.



**2.17** You acknowledge and understand that an investment in the Securities involves a high degree of risk and that the Securities are, therefore, a speculative investment. In particular, you have read and understood the “risk factors” set out in the Offering Document or other disclosure document. You have the ability to assess the merits of and understand and bear the economic risk of your investment in the Securities, have adequate means of providing for your current and contingent needs, have no need for liquidity with respect to your investment in the Securities and are able to assume such risks or sustain a loss of your investment in the Securities and you understand the nature of and terms governing the Securities.

**2.18** You are able to and hereby make all purchaser’s representations (including the representations under the heading “Deemed representation from each Placee” or equivalent) in the Offering Document or other disclosure document. Further, you have read and understood the selling restrictions set out in the Offering Document or other disclosure document and confirm that you will comply with all the restrictions set out therein.

**2.19** You warrant to Morgan Stanley that the subscription by you for the Securities through Morgan Stanley is lawful, and your obligations under this Appendix III relating to the Placing and any other documentation relating to the Placing to which you are a party constitute legal, valid and binding obligations, enforceable in accordance with their respective terms and this Appendix III has been duly authorised, executed and delivered by you.

**2.20** You have obtained or will obtain any consent, approval or authorisation required for you to enter into this Appendix III relating to the Placing and to purchase or accept delivery of the Securities, and you will not directly or indirectly purchase or sell the Securities except under circumstances which will be in compliance with any Applicable Regulations. You are eligible under such laws and regulations to make such purchase or sale and neither Morgan Stanley nor the Vendors nor any party involved in a Placing will infringe any such laws as a result of your offer to buy or sell the Securities.

**2.21** Where it is proposed to offer the Securities to the public (“Public Offer”) as well as via a private placement tranche, and under the Placing, investors are not allowed to apply for the Securities (where applicable) under both the Public Offer and the private placement tranche, you have not directly or indirectly (acting through a nominee or an agent) applied for Securities (where applicable):

- (i) under both tranches but only one; or
- (ii) made multiple applications within or under the Public Offer tranche.

**2.22** You will not purchase directly or indirectly more than 5% of the Securities offered in the Placing.

**2.23** To the extent that the Securities are listed or to be listed on an Exchange, or, where applicable under the listing rules of any other jurisdiction in which the Securities are listed or to be listed or required under the relevant offering or other disclosure documents, you (and if you are purchasing the Securities as a nominee or trustee for, or in your exercise of investment discretion for, or with funds or backing provided by, or upon the instructions of, other persons, those other persons or those ultimate beneficial owners of the Securities):

**2.23.1** are not an existing shareholder (or associate thereof) of the Company, and will immediately after completion of the Placing be independent of, and not connected with:

- (a) the Company or
- (b) any “connected person” (as such or similar term are from time to time prescribed under the listing rules of the relevant recognised Exchange) of the Company or any of its subsidiaries, including any director, chief executive, substantial shareholder, (or in the case that the Company is incorporated in the People’s Republic of China, the promoter or supervisor of the Company), or any of their respective “associates” (as such or similar term is from time to time defined in the listing rules of the relevant recognised Exchange), or

- (c) the underwriters, lead manager or broker, distributors or their respective “connected clients” (as such or similar term is from time to time defined in the listing rules of the relevant recognised Exchange);

**2.23.2** do not have any significant influence over the operations and financing policy of Company or any of its subsidiaries or controlling shareholder of the Company;

**2.23.3** are not an employee or past employee or a recipient of preferential allotment of reserved securities (as the listing rules of the relevant recognised Exchange may from time to time prescribe) of any Placing, if any, or such other persons identified in the relevant Offering Document or other disclosure document (2.23.1 to 2.23.3 of this Appendix III above are together “Related Parties” or as such term are from time to time defined in the listing rules of the relevant recognised Exchange);

**2.23.4** are not acting in concert with (within the meaning of that term as from time to time used in or as interpreted under Applicable Regulations in any jurisdiction in which the Placing is undertaken) any of the Related Parties;

**2.23.5** are not a nominee of any of the Related Parties;

**2.23.6** (a) have not directly or indirectly, offered or sold and you will not, directly or indirectly, offer or sell any Securities to the Related Parties except in circumstances which will be in compliance with any applicable laws, and regulations in force in any country or jurisdiction which the Placing is undertaken; or

(b) are not accustomed to taking instructions from any Related Party in relation to the acquisition, disposal, voting or any other disposition of the Securities by you or on your behalf or otherwise held by your nominee; or

(c) where you are a Related Party (or in the case of (b), you have received the necessary permission or exemption from the relevant Exchange or regulatory authorities) have made or will make the necessary reporting and will comply with the conditions in such permission or exemption (where applicable); and

**2.23.7** you will be deemed to have provided the confirmations set out in Clause 3 (*Notices to Investors or Prospective Investors in Hong Kong Initial Public Offerings*) of this Appendix III below, where the Public Offer relates to a Hong Kong IPO.

**2.24** In relation to the risks associated with the Securities:

**2.24.1** you understand that the Securities may not have been granted an investment grade by an accredited international investment rating agency and even if such investment grade ratings are to be

granted, there is no assurance that the ratings will remain in effect for any given period or that the ratings will not be revised by the rating agencies in the future, if in their judgment, circumstances so warrant;

**2.24.2** you will assume the foreign exchange/currency risks, where applicable, associated with the Placing;

**2.24.3** you acknowledge that you will be exposed to the country risks (including the social, economic and political conditions, changes in import or export controls, foreign currency controls, duties, levies, taxes and changes in the legal system) of the jurisdiction which the Company, the guarantor or the collateral provider of the Securities, if any, as the case may be, is located;

**2.24.4** you acknowledge that the Securities are or are likely to be subject to the credit risk of the Company, the guarantor or the collateral provider of the Securities, as the case may be;

**2.24.5** you acknowledge that your recourse to the Company, the guarantor or the collateral provider may be limited to the guarantee/collateral provided under the Securities; and

**2.24.6** in relation to debt securities, you acknowledge that unless the Securities' terms and conditions expressly provide for a mechanism for conversion and/or exchange, the Securities may only be redeemed by the Company, they may not be convertible into, or exchangeable for, the underlying securities of the Company and are subject to the selling and transfer restrictions as stated in the terms and conditions of the Securities.

**2.25** In connection with a Placing of the Securities registered for offering to the public in the US:

(a) you are not a restricted person holding a beneficial interest in the Issuer; or you qualify for a general exemption under the National Association of Securities Dealers ("NASD") Rule 2790 (the "Rule");

(b) where you are a restricted person, you do not have any beneficial interests in the Securities exceeding in the aggregate 10%. In the event that your future beneficial interest in the Securities exceeds 10%, you will reduce such beneficial interest to an aggregate below 10%;

(c) you are not a beneficial owner; and

(d) if you are a US tax subject, you confirm that you have signed Form W9.

**2.26** In connection with a Placing (other than in respect of Securities registered for offering to the public in the US), the Securities have not been and will not be registered under the US Securities Act of 1933, as amended (the "Securities Act"), or under the securities laws of any state of the US, and the Securities are being offered and sold outside the US to non-U.S. Persons (including professional and institutional investors in Hong Kong, accredited and institutional investors in Singapore) in reliance on Regulation S ("Regulation S") under the Securities Act. The Securities may not be offered, sold, delivered, renounced or transferred, directly or indirectly, in or into the US or to or for the account or benefit of, any US Persons, except in accordance with an applicable exemption from the registration requirements of the Securities Act. Accordingly, you represent, agree and acknowledge that you are or at the time the Securities are subscribed for or purchased will be, the beneficial owner of the Securities and are not a US Person (as defined in

Regulation S) and are located outside the US (within the meaning of Regulation S). If you received the Offering Document or other offering documents by email, you confirm that the email delivery address was not located in the US.

**2.27** In connection with a Placing of the Securities that is not registered for offering to the public in:

(a) Hong Kong, if you receive the offer in Hong Kong you acknowledge that you are a professional investor;

(b) Singapore, if you receive the offer in Singapore you acknowledge that you are an accredited or institutional investor; or

(c) Australia, if you receive the offer in Australia you acknowledge that you are a Wholesale Client and exempt from the requirement to receive a disclosure document.

**2.28** You are aware of your obligations under market abuse and insider laws and regulations and your disclosure obligations in the jurisdictions applicable to your participation in the Placing, and you confirm that you have complied with all such applicable laws and regulations. You acknowledge and agree that Morgan Stanley is under no obligation to advise you in relation to any applicable laws or regulations, or to make any filings or give any notifications on your behalf.

#### **ADDITIONAL REPRESENTATIONS AND WARRANTIES FOR SECURITIES LISTED ON TAIWAN STOCK EXCHANGE OR GRE TAI SECURITIES MARKET**

**2.29** To the extent that the Securities (including, without limitation,

(a) Taiwan Depositary Receipts representing shares of a Company incorporated outside Taiwan whose shares or securities are listed on another non Taiwan stock exchange;

(b) the shares of a Company incorporated outside Taiwan whose shares are not listed on any non Taiwan stock exchange and

(c) the shares of a Company incorporated in Taiwan (each such Company, an "Issuer"), (collectively, "Taiwanese Securities")) are listed or to be listed on the Taiwan Stock Exchange or Gre Tai Securities Market, you warrant that:

(i) you are not a director, supervisor, manager or shareholder holding more than ten percent (10%) of the shares of the Company or a nominee of any such person (or five percent (5%) of the shares of the Company where the Company qualifies as a "high technology company");

(ii) you are not an offeror, lead broker or distributor or depositary of the Securities;

(iii) you do not hold such Securities as nominee for any corporate entity or individual, and that you are not accustomed or under an obligation whether formal or informal to act in accordance with the directions, instructions or wishes of any corporate entity or individual in respect of such Securities that you may have subscribed for and/or purchased in connection with the offering; and (iv) you are not directly or indirectly funded or backed by any of the persons specified in (i) above.

**2.30** With respect specifically to the:

(i) initial public offering ("IPOs") of the Securities (including, without limitation, Taiwanese Securities) to be listed on the Taiwan Stock Exchange or the Gre Tai Securities Market, or

(ii) the rights issues of shares of an Issuer (“Rights Issues”) or secondary public offering of the Taiwan Depositary Receipts (“TDR SPOs”), for which various securities firms act as the underwriting syndicate (the “Underwriters”), you hereby represent and warrant that neither you nor, where you are a corporation, any of your shareholders nor any of the beneficial owners of the capital stock issued by you, fall within one of the categories of persons under Articles 36 and 43-1 of the Taiwan Securities Association Rules Governing Underwriting and Resale of Securities by Securities Firms (“Underwriting Rules”) who are prohibited from participating in the IPOs, Rights Issues or TDR SPOs, as set out in Annex B to this Appendix III.

### NON-LIABILITY AND OTHER PROVISIONS

**2.31** Morgan Stanley does not accept any liability to any person (including yourself) in relation to the Placing. Morgan Stanley merely acts as your agent in this Transaction. Morgan Stanley is not part of any syndicate for the Placing nor does Morgan Stanley have any other role in the offer of the Securities. You represent and undertake that you have not already and will not in the future separately (directly or indirectly) apply for any Securities in the Placing.

**2.32** If required (or if the Company or the Vendor requests Morgan Stanley to) Morgan Stanley will provide your full details to them, noting that its application in respect of the Placing is made by Morgan Stanley purely as your agent.

**2.33** You will be responsible for all liabilities and obligations in relation to the application for Securities, any consequential allocation of Securities to Morgan Stanley and any subsequent matters in relation thereto, and you will hold Morgan Stanley harmless in relation to all such liabilities, costs and obligations incurred or suffered by Morgan Stanley (if any). Accordingly, until full settlement of any Securities placed to you, Morgan Stanley may block the removal of any funds or securities or other investments from your Account(s), in order that Morgan Stanley may be assured of sufficient resources to effect any such settlement. Any extension of financial accommodation by Morgan Stanley to you in relation to payment for the Securities shall be documented under and governed by separate terms to be signed between you and Morgan Stanley.

### 3. NOTICE TO INVESTORS OR PROSPECTIVE INVESTORS IN HONG KONG INITIAL PUBLIC OFFERINGS

This Notice is to remind you of the rules applying to investors participating in initial public offerings listed on The Stock Exchange of Hong Kong Limited (“Hong Kong IPOs”) from time to time. Each time you participate through a Morgan Stanley Company in an offer of shares by a company (“Company”) in connection with its listing or proposed listing on The Stock Exchange of Hong Kong Limited, you will be deemed to have made the confirmations set out below. Please therefore consider carefully whether the confirmations are applicable to you upon each occasion that you are considering purchasing shares in any Hong Kong IPO.

Please note that your confirmations will vary according to whether you are participating in the international placing tranche or the public subscription tranche in any Hong Kong IPO.

If you participate in the international placing tranche of a Hong Kong IPO, the following confirmations will apply:

By accepting an allocation in the international placing of shares in the Company, you will be deemed to have made the following confirmations in respect of yourself(ves) and on behalf of any client accounts to which you allocate shares:

**(A) RESTRICTIONS ON PARTICIPATION BY RETAIL INVESTORS IN HONG KONG.** You confirm that you are a professional investor as defined under the SFO.

**(B) RESTRICTIONS ON PARTICIPATION BY CONNECTED PERSONS.** You confirm that you are not a person who is in any way connected with:

(I) (Where the Hong Kong IPO involves a listing on the Main Board of The Stock Exchange of Hong Kong Limited) a promoter, director, supervisor, chief executive or substantial shareholder of the Company or any of its subsidiaries or an associate (as defined in the Rules Governing the Listing of Securities on The Stock Exchange of Hong Kong Limited) of any of the foregoing; or

(II) (Where the Hong Kong IPO involves a listing on the Growth Enterprise Market of The Stock Exchange of Hong Kong Limited) a promoter, director, chief executive, substantial shareholder or management shareholder of the Company or any of its subsidiaries or an associate (as defined in the Rules Governing the Listing of Securities on the Growth Enterprise Market of The Stock Exchange of Hong Kong Limited) of any of the foregoing.

**(C) RESTRICTIONS ON PARTICIPATION IN BOTH THE PLACING TRANCHE AND THE SUBSCRIPTION TRANCHE.** You confirm that you have been reminded by Morgan Stanley that no application for shares in the subscription tranche will be made for your benefit or by anyone applying as your agent or by any other person.

You further understand that:

(I) A corporation and its controlling shareholder may be considered one and the same and cannot submit separate applications in both the placing and subscription tranches; and

(II) An application will be automatically deemed to be made for the benefit of a person where the application is made by an unlisted company which does not carry on any business other than dealing in shares and in respect of which the person, his/her spouse and/or his/her children under 18 years old control(s) or is/are entitled to control:

(a) More than 50% of the issued share capital or the voting power; or

(b) The composition of the board of directors.

If you participate in the public subscription tranche of a Hong Kong IPO, the following confirmations will apply:

By placing an order with Morgan Stanley to apply for a subscription of the shares in the Company in the Hong Kong public subscription tranche, you will be deemed to have made the following confirmations in respect of yourself(ves) and on behalf of any account(s) which you place orders:

**(D) RESTRICTIONS ON MULTIPLE APPLICATIONS IN THE HONG KONG PUBLIC SUBSCRIPTION TRANCHE.** You confirm that you have not submitted and will not submit, directly or indirectly, multiple applications for your benefit or apply for your benefit for more than 50% (where the Hong Kong IPO involves a listing on the Main Board of The Stock Exchange of Hong Kong Limited) or 100% (where the Hong Kong IPO involves a listing on the Growth



Enterprise Market of The Stock Exchange of Hong Kong Limited) of the shares offered in the Hong Kong public subscription tranche.

**(E) RESTRICTIONS ON PARTICIPATION IN BOTH THE PLACING TRANCHE AND THE SUBSCRIPTION TRANCHE.** You confirm that no application for shares in the placing tranche has been made or will be made for your benefit or by anyone applying as your agent or by any other person.

You further understand that:

(I) A corporation and its controlling shareholder may be considered one and the same and cannot submit separate applications in both the placing and subscription tranches or multiple applications in the subscription tranche; and

(II) An application will be automatically deemed to be made for the benefit of a person where the application is made by an unlisted company which does not carry on any business other than dealing in shares and in respect of which the person, his/her spouse and/or his/her children under 18 years old control(s) or is/are entitled to control:

(a) More than 50% of the issued share capital or the voting power; or

(b) The composition of the board of directors.

**(F) RESTRICTIONS ON PARTICIPATION BY CONNECTED PERSONS.** You confirm that you are not a person who is in any way connected with:

(I) (Where the Hong Kong IPO involves a listing on the Main Board of The Stock Exchange of Hong Kong Limited) a promoter, director, supervisor, chief executive or substantial shareholder of the Company or any of its subsidiaries or an associate (as defined in the Rules Governing the Listing of Securities on The Stock Exchange of Hong Kong Limited) of any of the foregoing; or

(II) (Where the Hong Kong IPO involves a listing on the Growth Enterprise Market of The Stock Exchange of Hong Kong Limited) a promoter, director, chief executive, substantial shareholder or management shareholder of the Company or any of its subsidiaries or an associate (as defined in the Rules Governing the Listing of Securities on the Growth Enterprise Market of The Stock Exchange of Hong Kong Limited) of any of the foregoing.

#### 4. NOTICE TO INVESTORS IN HONG KONG SECURITIES

This Notice is to remind you of the rules applying to investors engaging in Transactions in Hong Kong Securities.

**4.1 CLIENT IDENTITY RULES.** As part of the Hong Kong Government's measures to strengthen the order and transparency of its securities and futures markets, the SFC has introduced Client Identity Rules (for the purposes of this Appendix IV, "Rules"). The Rules require Hong Kong licensed and registered persons to ascertain and record identifying details of the person(s) that stand(s) to gain the commercial or economic benefit of the transaction and/or bear(s) its commercial or economic risk (i.e. the ultimate beneficial owner(s)) for whom a transaction is processed) as well as the person(s) who is(are) ultimately responsible for originating instructions in relation to the transaction. Under the Rules, the Associated Firms which are Hong Kong registered persons and Morgan Stanley Hong Kong Securities Limited are required to provide these details (the "Client Information") to the Hong Kong Regulators within two business days in Hong Kong of their request. Morgan Stanley is expected

to have a system in place whereby the required information can be provided to the Hong Kong Regulators within the required time frames. In exceptional market circumstances, the information may have to be available very shortly after the request.

Morgan Stanley and the Associated Firms understand that there may be circumstances, for example where you act for third parties as an agent, where you might not wish to disclose such Client Information to Morgan Stanley. The Hong Kong Regulators have recognised this and have introduced a policy whereby Morgan Stanley can comply with the Rules if you agree to provide the Client Information to the Hong Kong Regulators directly.

In accordance with the Rules, counterparties who undertake Transactions through Morgan Stanley or any Associated Firm in Hong Kong Securities agree to conduct Transactions with Morgan Stanley on the following basis:

If you are not acting for your own account (e.g. if you are not the ultimate beneficial owner of the assets or if you effect Transactions for the account of clients, whether on a discretionary or non-discretionary basis, and whether as an agent or by entering into matching transactions as principal with your clients), you hereby agree that, in relation to a Transaction where Morgan Stanley, an Associated Firm or Morgan Stanley Hong Kong Securities Limited has received an enquiry from the Hong Kong Regulators, the following provisions shall apply:

(I) Except as provided below, you shall, immediately upon request by a Morgan Stanley or an Associated Firm (which request shall include the relevant contact details of the Hong Kong Regulators), inform the Hong Kong Regulators of the identity, address and contact details of the client for (so far as known to you) and of the person with the ultimate beneficial interest in the Transaction. You shall also inform the Hong Kong Regulators of the identity, address and contact details of any third party (if different from the ultimate beneficiary) who ultimately originated the instructions in relation to the Transaction.

(II) If you effected the Transaction for a collective investment scheme, discretionary account or discretionary trust, you shall:

(A) immediately upon request by Morgan Stanley or an Associated Firm (which request shall include the relevant contact details of the Hong Kong Regulators), inform the Hong Kong Regulators of the name of the scheme, account or trust.

(B) as soon as practicable, inform Morgan Stanley when your discretion to invest on behalf of the scheme, account or trust has been overridden. In the case where your investment discretion has been overridden, you shall immediately upon request by a Morgan Stanley or an Associated Firm (which request shall include the relevant contact details of the Hong Kong Regulators), inform the Hong Kong Regulators of the identity, address and contact details of the person(s) who has or have ultimately originated the instruction in relation to the Transaction.

(III) If you are aware that your client is acting as intermediary for its underlying client(s), and you do not know the identity, address and contact details of the underlying client(s) for whom the Transaction was effected, you confirm that:

(A) you have arrangements in place with your client which entitle you to obtain the information set out in Clause (I) and/

or (II) from your client immediately upon request or procure that it be so obtained; and

(B) you will, upon request from Morgan Stanley or an Associated Firm in relation to a Transaction, promptly request the information set out in Clause (I) and/or (II) from your client on whose instructions that Transaction was effected, and provide the information to the Hong Kong Regulators as soon as received from your client or procure that it be so provided.

(IV) If you are in a jurisdiction with client secrecy laws, you confirm that:

(i) you and your clients waive the benefit of the secrecy laws; and

(ii) you will procure the waiver by the ultimate beneficiary of the benefit of the secrecy laws, in respect of the information set out in Clauses (I) and (II). You confirm that such waivers are valid and binding under the laws of such jurisdiction.

(V) If you are a licensed corporation under the SFO or an authorised person under the FSMA (in either case, “a regulated Party”), you hereby represent and warrant that you, as a regulated Party, are dealing in relation to the Customer Agreement either:

(i) only for your own account and not for the account or accounts of any of your clients; or

(ii) only for the account or accounts of any of your clients and not for your own account.

Your obligations under this Notice shall survive termination (howsoever caused) of the Customer Agreement.

**4.2 SHORT-SELLING.** You must comply with all relevant restrictions on short-selling which apply to the trading of your Investments. In particular, you warrant (on a continuing basis) that, at the time you place an order with Morgan Stanley or an Associated Firm to sell Hong Kong Securities at or through a Hong Kong Exchange, you (or, if you are an agent, your principal) have a presently exercisable and unconditional right to vest those Hong Kong Securities in a purchaser of them. You must inform Morgan Stanley if any order is a short selling order (as defined by the SFO) and will provide to Morgan Stanley an assurance as to that order within such time, in such form and with such information as Morgan Stanley requires.

**4.3 AUTOMATED TRADING SERVICES.** Morgan Stanley may arrange for any of your Hong Kong Securities Transactions to be executed using the automated trading services provided by Morgan Stanley Asia Limited or Morgan Stanley Hong Kong Securities Limited (or any of their respective successor entities) respectively, to MSWM pursuant to its delegation power under Clause 6 (*Delegation*) of the General Terms. For the avoidance of doubt, no account will be opened for you with any of the aforementioned entities for the purpose of any automated trading services.

## 5. NOTICE TO INVESTORS IN AUSTRALIAN SECURITIES

This Notice is to remind you of the rules applying to investors engaging in Transactions in Australian Securities.

**5.1 SHORT-SELLING.** You must comply with all relevant restrictions on short-selling which apply to the trading of your Investments. In particular, you warrant (on a continuing basis) that, at the time you place an order with Morgan Stanley or an Associated Firm to sell Australian Securities at or through an Australian Exchange, you (or, if you are an agent, your principal) have a presently exercisable

and unconditional right to vest those Australian Securities in a purchaser of them. You must inform your MSWM financial adviser if you are using borrowed stock to facilitate a sale prior to the trade being executed.

## 6. INVESTING IN SHARES LISTED ON THE TAIWAN STOCK EXCHANGE (TSE) THROUGH THE FOREIGN INSTITUTIONAL INVESTOR (FINI) REGISTRATION HELD BY MSIP (THE “MS FINI”):

**6.1** The MS FINI invests in and holds Morgan Stanley’s proprietary positions in TSE-listed stocks. You may invest in and hold your positions in TSE-listed stocks through the MS FINI, if you do not have your own FINI registration in Taiwan. If you intend to hold your positions in TSE-listed stocks through the MS FINI, it is important that you understand the limitations and risks of doing so.

**6.2** MSIP is regarded under Taiwan law as the legal owner of all shares held through the FINI and your shareholdings will be commingled with Morgan Stanley’s proprietary positions. Clients who hold their positions through the FINI will be ineligible to make an election on certain types of corporate actions. The election made by MSIP as the FINI owner is required to be made with respect to all shares held in the FINI, including shares held for clients.

**6.3** As a result of MSIP’s election, the issuer may subsequently offer to buy back MSIP’s shareholding. If the issuer determines that partial acceptances of that buy-back offer are not permitted, the decision made by MSIP with respect to its proprietary positions will also apply to positions held for clients in the MS FINI.

**6.4** Accordingly there is a risk that shares held for clients through the MS FINI will be sold to the issuer and clients will receive the cash proceeds of such sale. If the issuer determines that partial acceptances of any buy-back offers are permitted, clients holding shares through the MS FINI will be eligible to enter their election.

**6.5** If your Account is in the name of an offshore personal holding company and you wish to hold TSE-listed stocks through the MS FINI, you hereby represent and warrant to Morgan Stanley that such personal holding company is not beneficially owned (over 30%) or controlled (to any extent) by an individual residing in the PRC with either:

- (i) a household registration in the PRC; or
- (ii) a PRC identity card.

## Annex B to Appendix III

# List of Persons Prohibited from Participating in the Placing of Taiwanese Securities under Articles 36 and 43-1 of the Underwriting Rules

1. An equity-method investee of the Issuer;
2. An investor that has equity-method investments in the Issuer;
3. A company whose chairman or general manager is the same person as the chairman or general manager of the Issuer, or is the spouse thereof, or is a relative thereof within the second degree of kinship;
4. A foundation that has received one-third or more of its paid-in endowment from the Issuer;
5. The Issuer's directors, supervisors, general manager, vice general manager(s), assistant general managers, or any officer serving directly under the general manager;
6. The spouse of a director, a supervisor, or the general manager of the Issuer;
7. A relative within the second degree of kinship of a director, a supervisor, or the general manager of the Issuer;
8. A director, supervisor, or employee of any of the Underwriters, a spouse thereof, or a relative thereof within the second degree of kinship;
9. An employee of the Issuer;
10. A director, supervisor, or managerial officer (or a spouse, son, or daughter thereof) of a company that has underwriting business dealings with any of the Underwriters;
11. A financial holding company to which an Underwriter itself belongs, or another subsidiary of such a financial holding company; however, this restriction does not apply to a securities investment trust fund offered by a securities investment trust company belonging to such a financial holding company;
12. A director, supervisor, or managerial officer (or a spouse, son, or daughter thereof) of a financial holding company to which an Underwriter itself belongs, or of another subsidiary of such a financial holding company;
13. The depositary of Taiwan Depositary Receipts, a director, supervisor, managerial officer, or employee (or a spouse, son or daughter thereof) of a depositary of Taiwan Depositary Receipts;
14. A de facto related party of the Issuer or any of the Underwriters;
15. A party listed in any of the preceding subClauses that uses the name of another party to participate in the subscription (i.e. a de facto related party that engages in any of the acts set out under Article 2 of the Taiwan Securities and Exchange Act Enforcement Rules as last amended on January 8, 2008 and as amended from time to time).



## Appendix IV

# Supplemental Provisions relating to Electronic Communications and Communication via SMS

## 1. CONSENT TO RECEIVE DOCUMENTS BY ELECTRONIC DELIVERY

In accordance with your consent and acknowledgement in the Account Application Form, Morgan Stanley may communicate with you in writing and send any documents to an internet website notified to you or any one of your facsimile, electronic mail or mailing address in Morgan Stanley's records. These documents include Offering Documents, Account Statements, Transaction confirmations, and margin calls (together, "Email Documents"). The following terms will apply:

**1.1** You understand that Email Documents will be made available to you either through a file attached to an electronic mail message sent to the e-mail address provided in the Account Application Form, or to any of the email addresses provided by you and appearing in Morgan Stanley's records, or over an internet web site.

**1.2** You understand that you may incur costs, such as data usage charges, in accessing documents. You understand that Adobe Acrobat Reader software will be required to view and print documents. You acknowledge that you have Adobe Acrobat Reader or have a computer system capable of downloading and running Adobe Acrobat Reader.

**1.3** You understand that once given, you may not revoke your consent to receive the Email Documents by electronic delivery.

**1.4** You understand that you may request delivery of a hard copy of any Email Document by contacting your MSWM financial adviser.

**1.5** You acknowledge and agree that:

- (i) you have regular and frequent access to your electronic mail,
- (ii) you will not rely on Morgan Stanley to prompt you to check your electronic mail,
- (iii) you accept that proof of electronic mail transmission by Morgan Stanley or an Associated Firm to your e-mail address as appearing in Morgan Stanley's records will be sufficient proof of delivery,
- (iv) Morgan Stanley and the Associated Firms are entitled to assume that the e-mail address(es) provided in the Account Application Form or otherwise as provided by you to MSWM is(are) valid, and
- (v) you will inform Morgan Stanley promptly in writing of any changes to your e-mail address(es). You may update your e-mail address(es) by notifying your MSWM financial adviser in writing.

## 2. METHOD OF TRANSMISSION OF ACCOUNT STATEMENTS AND TRANSACTION CONFIRMATIONS

Your Account Statements and Transaction confirmations will continue to be sent to you by post or facsimile unless you elect in the Account Application Form or in *Matrix* to receive these documents by electronic delivery or suppress paper delivery.

### 3. REQUEST FOR ACCESS TO ACCOUNT STATEMENTS AND TRANSACTION CONFIRMATIONS ON MATRIX; AND SUPPRESSION OF PAPER DELIVERY OF ACCOUNT STATEMENTS AND TRANSACTION CONFIRMATIONS

If you wish to view the Account Statements and Transaction confirmations on *Matrix* and, if additionally you wish to suppress paper delivery (including delivery by post or facsimile) of Account Statements and Transaction confirmations, please refer to your MSWM financial adviser for details (including the applicable on-line viewing terms and conditions).

If the Account Statements and Transaction confirmations are made available on *Matrix*, you will be notified of the availability of such documents through an electronic mail message sent to the e-mail address provided in the Account Application Form or as notified to Morgan Stanley from time to time, which will disclose the location of the internet website where the document can be found, or contain an imbedded hyperlink, which will take you directly to the document, or both.

### 4. CONSENT TO RECEIVING MARGIN CALLS THROUGH ELECTRONIC MAIL

In accordance with your consent and acknowledgement in the Account Application Form, Morgan Stanley may send margin calls and any margin related information to you by electronic mail. The following terms will apply:

**4.1** You understand that any and all margin calls made by, and any margin related information from, Morgan Stanley or an Associated Firm with respect to your margin trading, OTC derivatives, stock lending, repo trading and other trading activities where margin is required, in each case pursuant to the Customer Agreement (including the General Dealing Terms, Credit Module, Foreign Exchange Transactions Module, Exchange Traded Derivatives Module, the ISDA and any other documentation you may enter into with Morgan Stanley or an Associated Firm) may be communicated to you through electronic mail sent to the e-mail address provided in the Account Application Form or to any of the email addresses provided by you and appearing in Morgan Stanley's records.

**4.2** You understand that written margin calls may also be communicated to you by post, facsimile transmission or any other electronic transmission (other than electronic mail). Where practicable, you may also receive oral communications from your MSWM financial adviser relating to margin calls for certain types of trading.

### 5. CONSENT TO RECEIVE INFORMATION BY SMS

If you consent in writing to receive information by SMS, the following terms will apply:

**5.1** When an SMS is sent to you, the sender will be shown as "mrnstnly", but the name of your MSWM financial adviser who sent you the SMS will be prefixed to the SMS. Morgan Stanley's SMS tool is a one-way communication service, which only allows SMS to be sent to you and does not allow you to respond to the SMS. (If you would like to elect to stop receiving any further SMS from Morgan Stanley, please see Clause 6 of this Appendix IV below for details of how to notify Morgan Stanley). Accordingly, you will not be allowed to use SMS to place any Instructions, including Instructions for the purchase or sale of any Investment, for fund transfers or to effect any Transaction.

**5.2** Please note that certain jurisdictions limit the numbers of characters in an SMS so there may be instances where multiple SMS need to be sent to you or where SMS are automatically truncated and may appear incomplete.

### 6. OPTING OUT OF RECEIVING SMS

Morgan Stanley fully understands that you may at some point prefer not to receive any further SMS from it. If you would like to revoke your consent for Morgan Stanley to communicate with and send information to you via SMS, please submit an email request to [rcts-ops@morganstanley.com](mailto:rcts-ops@morganstanley.com). Be sure to include your mobile device phone number(s) in the request.

### 7. RISKS OF RECEIVING SMS AND DISCLAIMERS

**7.1 MORGAN STANLEY RETAINS COPIES OF MESSAGES AND MONITORS THEM.** Morgan Stanley reserves the right, to the extent permitted by Applicable Regulations, to monitor communications through SMS and store such messages in a manner and at a location as Morgan Stanley determines in its discretion to comply with its record-keeping obligations.

**7.2 INFORMATION MAY NOT BE SECURE WHEN TRANSMITTED BY SMS.** Morgan Stanley makes no representation or warranty that SMS will be confidential. SMS may be intercepted or accessed by unauthorised or unintended parties, may not arrive at the intended recipient, or may not arrive in the form transmitted.

**7.3 SMS MAY BE DELAYED, AND INFORMATION IN SMS MAY BE NOT BE UP TO DATE AND MAY NOT BE UPDATED.** You agree and acknowledge that transmission of SMS may be, at any time, adversely affected by problems with telecoms networks and/or force majeure events including, without limitation, interference to the network coverage. Morgan Stanley does not accept responsibility for, or guarantee SMS messages to be, accurate, timely, secure, error or virus-free. You further agree and acknowledge that all information provided through SMS is given only as of the date of dispatch and Morgan Stanley has not undertaken, and will not undertake, any duty to update the information or otherwise advise you of changes in its opinion or in the research or information Morgan Stanley makes available to you.

**7.4 SMS IS NOT INTENDED TO SERVE AS AN OFFER OR SOLICITATION.** An SMS is not an offer (or solicitation of an offer) to buy or sell any Investment that may be mentioned.

**7.5 THIRD PARTY DATA.** The content in the SMS may be obtained from a variety of third party content providers and may be subject to change. Insofar as permitted under Applicable Regulations, Morgan Stanley disclaims any and all liability for the content of the SMS, including without limitation, any express or implied representations or warranties as to the accuracy of the content provided and any errors contained in, or omissions from, such content. Morgan Stanley shall not be liable for any loss or liability suffered by you resulting from the communication of any information to you by SMS or your use or reliance in any way on the content of such SMS.

**7.6 SMS DELIVERY OF INFORMATION.** By accepting the receipt of an SMS, you confirm that you are authorised to do so and that acceptance of an SMS and receipt of information in this manner would not be in breach of your internal policies and procedures, as applicable.

## Appendix V

# Supplemental Provisions relating to FX Transactions

## 1. SPOT FX TRANSACTIONS

To the extent that you enter into spot foreign exchange transactions (howsoever confirmed, including by SWIFT MT300 or phone Confirmation) with Morgan Stanley (the “Spot FX Transactions”), the following terms shall apply.

If Morgan Stanley determines that a Disruption Event (as defined in Clause 1.2 (*Meaning of Disruption Event*) of this Appendix V below) occurs or has occurred and is continuing in respect of a Spot FX Transaction on any day that is a determination date for that Spot FX Transaction, the fallback determination mechanism described below (applied in accordance with its terms) shall apply as an alternative basis for the settlement of that Spot FX Transaction:

**1.1 FALLBACK DETERMINATION MECHANISM – ALTERNATIVE CURRENCY SUBSTITUTE.** The payment obligations under such Spot FX Transaction will be replaced by an obligation to pay an amount that would be due as if such Spot FX Transaction were a Non-Deliverable Forward Transaction, together with interest on such amount at a rate per annum equal to the cost to the relevant party (as certified by it) of funding that amount for the period from and including the original date that, had the Disruption Event not occurred, would have been the settlement date for the Spot FX Transaction up to, but excluding, the actual date of payment of that amount. The party obliged to pay (after giving effect to such conversion) the settlement amount will instead pay to an account designated by the other party an amount of an alternative currency agreed between you and Morgan Stanley (or failing that an amount in any of USD or AUD as determined by Morgan Stanley in its sole discretion), equal to the quantity of Affected Currency (as defined in Clause 1.2 (*Meaning of Disruption Event*) of this Appendix V below) owed on the settlement date. The valuation date in respect of the Affected Currency will be the date that would have been the settlement date for the Spot FX Transaction, if the Disruption Event had not occurred.

**1.2 MEANING OF DISRUPTION EVENT.** A “Disruption Event” is an event that either:

- (a) generally makes it impossible, or
- (b) makes it impossible for a party to the Spot FX Transaction, to:
  - (i) Convert one currency (the “Affected Currency”) into the other currency in the country of origin of that Affected Currency through customary channels, except where such impossibility is due solely to the failure by that party to comply with any law, rule or regulation (unless such law, rule or regulation is enacted after the trade date of the Spot FX Transaction and it is impossible for such party, due to an event beyond the control of that party, to comply with such law, rule or regulation); or
  - (ii) Deliver:
    - (A) the Affected Currency from accounts inside the country of origin of the Affected Currency to accounts outside such country; or



(B) the Affected Currency between accounts inside the country of origin of the Affected Currency or to a party that is a non-resident of such country,

except where such impossibility is due solely to the failure by that party to comply with any law, rule or regulation (unless such law, rule or regulation is enacted after the trade date of the Spot FX Transaction and it is impossible for such party, due to an event beyond the control of that party, to comply with such law, rule or regulation); or

(iii) Obtain a sufficient amount of the Affected Currency in the country of origin of the Affected Currency in order for a party to fully perform its obligations under the Spot FX Transaction, as a result of the general interbank exchange market in the country of origin of the Affected Currency becoming illiquid.

**1.3** Where one of the currencies of a Spot FX Transaction is offshore CNY, references to “country of origin” in paragraphs (i) and (iii) of Clause 1.2 (*Meaning of Disruption Event*) of this Appendix V above shall be construed as references to Hong Kong or elsewhere outside the PRC; and in paragraph (ii) of Clause 1.2 (*Meaning of Disruption Event*) of this Appendix V shall be construed as references to Hong Kong.

**1.4** The applicable exchange rate for determining the amount(s) payable under each Spot FX Transaction shall be agreed with you (either as a specified exchange rate, or an exchange rate published on a standard foreign exchange rate fixing source such as Bloomberg or Reuters, or an exchange rate published by one or more specified banks) or, if no such rate has been agreed, it shall be determined by Morgan Stanley in its sole discretion acting in good faith. If the applicable exchange rate is not published by the agreed fixing source or the specified bank(s) at the relevant time and date, or if the applicable exchange rate published is zero or negative, Morgan Stanley will determine the applicable exchange rate in its sole discretion acting in good faith. If the agreed fixing source is not available, Morgan Stanley shall determine the applicable rate in its sole discretion acting in good faith.

## 2. THAI BAHT CURRENCY TRANSACTIONS

Further to the Bank of Thailand’s Measure to Prevent Thai Baht Speculation dated 29 February 2008 which came into effect in February 2008, each Morgan Stanley entity (including MSIP) is subject to restrictions affecting its holdings of Thai Baht currency (“THB”). These include the following:

(i) Maintaining THB accounts in Thailand for settlement purposes only, where settlement means the settlement of securities transactions and cash payment transactions.

(ii) Forfeiture of credit interest on its accounts.

(iii) Ensuring that the aggregated end of day balances for cash accounts with all financial institutions in Thailand do not exceed THB 300 million and adjusting (the “Daily THB Limit”).

Please note therefore that the provisions described in (i) and (ii) above will apply to any THB balances Morgan Stanley is holding for your Account.

In relation to the Daily THB Limit, Morgan Stanley and the Associated Firms will be required to adjust its Thai Baht balances in all current and savings accounts to the permitted level on a daily basis. To enable Morgan Stanley to comply with the Daily

THB Limit, it is critical that Morgan Stanley is able to adjust client balances at any time. Accordingly, at any time that you are holding a long or short position in THB, Morgan Stanley reserves the right in its absolute discretion and without prior notice to convert your holding of THB, in whole or in part, into USD at such rate as Morgan Stanley deems appropriate.

## Appendix VI

# Quantifiable Monetary Benefits

Asset Class	Products	Monetary Benefits	
Derivatives	Listed Derivatives - Options	As agreed with you from time to time	
	Structured Notes / OTC Derivatives	Maturity	Monetary Benefits
		< 1 yr	≤ 2%*^
		1-5 yr	≤ 3%*^
Fixed Income	Investment Grade Bonds	> 5 yr	≤ 5%*^
		< 2 yr	≤ 1%*^
	High Yield / Emerging Markets Bonds	≥ 2 yr	≤ 2%*^
		Any tenor	≤ 2%*^
		Any tenor	≤ 1%*^
Foreign Exchange (FX)	Cash (Spot and Forward)	Any tenor	≤ 2%*^
Equities	Listed Cash Equities	As agreed with you from time to time	
Mutual Funds	Placement	Up to 2%^	
	Ongoing annual fees	Up to 2%^	
Alternative Investments (e.g. Hedge Funds, Private Equities, etc.)		As agreed with you from time to time	
Others		As agreed with you from time to time	

Note:

\* - in terms of investment amount

^ - or such higher amount as agreed with you from time to time

## Appendix VII

## Details of Fees and Charges

Type	Charges Details
Inward remittances	Free of charge
Outward remittance (swift payment and cheque issuance)	Free of charge
Internal transfers	Free of charge
Transfer in of equities / bonds / hedge funds	Free of charge
Transfer out of equities / bonds / hedge funds	Free of charge
Investment Advisory Services Fee	As outlined in the Fee-based Account Supplement (if any)
Administration Fee	\$231 (GST inclusive) per account per month or such other amount as Morgan Stanley notifies you in writing
• Custody Fee	Free of charge
• Interest = Unauthorized overdraft	Based on Morgan Stanley's cost of funding and a spread as determined by it at its discretion
Other fees	As agreed with you from time to time

**Important Notes:**

1. The fees and commissions set out above apply to general financial services and do not include, unless specified, special services, out-of-pocket expenses and Morgan Stanley's correspondents' charges.
2. All fees and commissions set out above are subject to change or cancellation upon Morgan Stanley giving prior notice to you in accordance with the Applicable Regulations.
3. In case the monetary benefits of a particular transaction exceed the percentage / amount set out above, your MSWM financial adviser will notify you prior to or at the point of sale.
4. All figures in AUD.
5. Eligible households may receive a reduced Administration Fee, and where applicable, you will be notified by Morgan Stanley or your MSWM financial adviser.

## Appendix VIII

## Quantifiable and Non-quantifiable Benefits

### 1. QUANTIFIABLE FEES, COMMISSION AND BENEFITS

Morgan Stanley may receive a fee or commission from a product issuer for selling certain Investments (including mutual and alternative funds) to you, or may otherwise make a profit associated with the sale of the Investment to you.

### 2. NON-QUANTIFIABLE MONETARY BENEFITS

Where MSWM receives a fee or commission or otherwise makes a profit from such sale of Investment to you, MSWM may share such fee, commission or profit with any of its Associated Firms to compensate the Associated Firm for any costs incurred in relation to the Investment. Such sharing may deliver a residual profit or monetary benefit to those affiliates.

Additionally, in some cases, when Morgan Stanley distributes to you Investments issued or transacted by any of its Associated Firms, Morgan Stanley may not explicitly receive monetary benefits for doing so, but Morgan Stanley will nevertheless benefit from the origination and distribution of the Investment. In other cases, Morgan Stanley may receive monetary benefits in the form of fees, commissions, rebates or other form of remuneration for distributing to its clients Investments issued by any of its Associated Firms, which are not quantifiable at the point of sale.

Where any of its Associated Firms is appointed underwriter for a placing or initial public offering of securities by a company, Morgan Stanley may indirectly receive a fee or commission from the issuer, through its Associated Firms, for placing the securities to its clients.



## Appendix IX

# Disclosures pursuant to Central Securities Depositories Regulation

The Central Securities Depositories Regulation (“**CSDR**”) aims to improve securities settlement in the EU and to harmonise the authorisation and supervision of CSDs and international CSDs within the EEA (together, “**CSDs**”). In particular, Article 38(5) of CSDR requires that CSD participants disclose the prices and fees associated with the services they offer. Paragraph 2 (*Pricing Disclosure*) of this Appendix IX provides guidance on the factors which affect fees and prices for the settlement and custody of relevant cash securities through MSIP. Article 38(6) of CSDR also requires that CSD participants disclose details of the available account segregation models (i.e. omnibus or individual client segregated accounts) and the operational costs associated with each. The possible cost implications of different account segregation models are addressed in Paragraph 2 (*Pricing Disclosure*) of this Appendix IX and information on other aspects of different account segregation models is available in Paragraph 3 (*Risk Disclosure*) of this Appendix IX.

The contents of this Appendix IX are also available at <https://www.morganstanley.com/disclosures/csd-disclosures> and may be updated from time to time.

## 1. DEFINITIONS

Capitalised terms used in this Appendix IX shall, unless otherwise defined herein, have the meanings set out in Clause 42 (*Definitions*) of the General Terms, except that references to “we”, “us” or “our” in this Appendix IX shall refer to MSIP or any of its successors (and, where the context allows, any of their agents, delegates and brokers). The following additional definitions apply to this Appendix IX:

“**bail-in**” refers to the process under the Banking Act 2009 applicable to failing UK banks and investment firms under which the firm’s liabilities to clients may be modified, for example by being written down or converted into equity;

“**Central Securities Depository**” or “**CSD**” is an entity which records legal entitlements to dematerialised securities and operates a system for the settlement of transactions in those securities;

“**Central Securities Depositories Regulation**” or “**CSDR**” refers to EU Regulation 909/2014 which sets out rules applicable to CSDs and their participants;

“**direct participant**” means an entity that holds securities in an account with a CSD and is responsible for settling transactions in securities that take place within a CSD. A direct participant should be distinguished from an indirect participant, which is an entity, such as a global custodian, which appoints a direct participant to hold securities for it with a CSD;

“**resolution proceedings**” are proceedings for the resolution of failing UK banks and investment firms under the Banking Act 2009.

## 2. PRICING DISCLOSURE

### 2.1 FACTORS AFFECTING FEES AND PRICING

**2.1.1** Fees and prices for the settlement and custody of cash securities positions provided to clients by MSIP may depend on a number of variables, including the following:

- (a) volume of trades;
- (b) market scope:
  - (i) brokerage / clearing fees incurred by Morgan Stanley;
  - (ii) complexity of clearing trades;
  - (iii) market custody structure (segregated vs omnibus);
- (c) percentage of execution done with Morgan Stanley;
- (d) execution methodology (standalone trading vs execution / allocation structure);
- (e) external funding costs (cost of intraday liquidity buffers);
- (f) trading cleanliness: the volume of trades that require manual attention vs those that do not require manual attention;
- (g) fundability of assets under custody;
- (h) requirement to reconcile positions on a daily basis;
- (i) ongoing asset servicing requirements.

**2.2** The following diagram shows how some of the variables listed above would affect pricing:

Lower charge <span style="float: right;">Higher charge</span>	
Omnibus Markets	Segregated Markets
Execution with Morgan Stanley	Execution away from Morgan Stanley
Established Markets	Emerging Markets
Fundable Assets	Unfundable Assets
Straight Through Processing	Manual Processing
Clearing Fees (Low)	Clearing Fees (High)
Execution / Allocation Strategy	Standalone Strategy
Simplistic Corporate Actions	Complex Corporate Actions

### 2.3 COSTS FOR INDIVIDUAL VS OMNIBUS ACCOUNTS

**2.3.1** Article 38(5) of CSDR requires that a direct participant of an impacted CSD offers its client, at least, the choice between omnibus client segregation and individual client segregation and informs them of the costs and level of protection associated with each option.

**2.3.2** Different CSD structures are likely to result in varying levels of costs and risk associated with the default of a market participant or another client. Please refer to Paragraph 3 (*CSDR Risk Disclosure*) below that sets out a high-level overview of the different levels of protection associated with the various account models.

**2.3.3** The specific costs of an individual or omnibus account for a particular client may depend on the number of accounts maintained for the relevant client, the type of securities provided custody in such accounts, the fundability of the securities and the ongoing operational costs associated with maintaining that account. MSIP envisages the operational costs to be greater for individual accounts. Any client may at any time obtain the specific costs for such accounts by contacting their MSWM Financial Adviser.

### 3. CSDR RISK DISCLOSURE

The purpose of this Paragraph is to disclose the levels of protection associated with the different levels of segregation that MSIP provides in respect of securities that MSIP holds directly for clients with CSDs, including a description of the main legal implications of the respective levels of segregation offered and information on the insolvency law applicable. This disclosure is required under Article 38(6) of CSDR. This Paragraph 3 is not intended to constitute legal or other advice and should not be relied upon as such. Clients should seek their own legal advice if they require any guidance on the matters discussed in this Paragraph 3.

### 3.1 BACKGROUND

**3.1.1** In MSIP's own books and records, MSIP records each client's individual entitlement to securities that MSIP holds for that client in a separate client account. MSIP also opens accounts with CSDs in MSIP's own (or in MSIP's nominee's) name in which MSIP holds clients' securities. MSIP currently makes two types of accounts with CSDs available to clients: individual client segregated accounts ("ISAs") and omnibus client segregated accounts ("OSAs").

**3.1.2** An ISA is used to hold the securities of a single client and therefore the client's securities are held separately from the securities of other clients and MSIP's own proprietary securities.

**3.1.3** An OSA is used to hold the securities of a number of clients on a collective basis. However, MSIP does not hold its own proprietary securities in OSAs.

### 3.2 MAIN LEGAL IMPLICATIONS OF LEVELS OF SEGREGATION

#### 3.2.1 INSOLVENCY

Clients' legal entitlement to the securities that MSIP holds for them directly with CSDs would not be affected by MSIP's insolvency, whether those securities were held in ISAs or OSAs. The distribution of the securities in practice on an insolvency would depend on a number of factors, the most relevant of which are discussed below.

#### (a) Application of English insolvency law

In the unlikely event that MSIP was to become insolvent, MSIP's insolvency proceedings would take place in England and be governed by English insolvency law. Under English insolvency law, securities that MSIP held on behalf of clients would not form part of MSIP's estate on insolvency for distribution to creditors, provided that they remained the property of the clients<sup>1</sup>. Rather, they would be deliverable to clients in accordance with each client's proprietary interests in the securities. As a result, it would not be necessary for clients to make a claim in MSIP's insolvency as a general unsecured creditor in respect of those securities. Securities that MSIP held on behalf of clients would also not be subject to any bail-in process, which may be applied to MSIP if it were to become subject to resolution proceedings. Accordingly, where MSIP holds securities in custody for clients and those securities are considered the property of those clients rather than MSIP's own property, they should be protected on MSIP's insolvency or resolution. This applies whether the securities are held in an OSA or an ISA.

#### (b) Nature of clients' interests

Although MSIP's clients' securities are registered in MSIP's name at the relevant CSD, MSIP holds them on behalf of clients, who are considered as a matter of law to have a beneficial proprietary interest in those securities. This is in addition to any contractual right a client may have against MSIP to have the securities delivered to them. This applies both in the case of ISAs and OSAs. However, the nature of clients' interests in ISAs and OSAs is different. In relation to an ISA, each client is beneficially entitled to all of the securities held in the ISA. In the case of an OSA, as the securities are held collectively in a single account, each client is normally considered to have a beneficial interest in all of the securities in the account proportionate to its holding of securities. MSIP's books and records constitute evidence of MSIP's clients' beneficial interests in the securities. The ability to rely on such evidence would be particularly

<sup>1</sup> When a client has sold, transferred or otherwise disposed of their legal entitlement to securities that we hold for them (for example, under a right to use or title transfer collateral arrangement), the securities will no longer be the property of the client.

important on insolvency. In the case of either an ISA or an OSA, an insolvency practitioner may require a full reconciliation of the books and records in respect of all securities accounts prior to the release of any securities from those accounts. MSIP is subject to the client asset rules of the FCA (“**CASS Rules**”), which contain strict and detailed requirements as to the maintenance of accurate books and records and the reconciliation of MSIP’s records against those of the CSDs with which accounts are held. MSIP is also subject to regular audits in respect of MSIP’s compliance with those rules. As long as books and records are maintained in accordance with the CASS Rules, clients should receive the same level of protection from both ISAs and OSAs.

### 3.2.2 SHORTFALLS

If there were a shortfall between the number of securities that MSIP is obliged to deliver to clients and the number of securities that MSIP holds on their behalf in either an ISA or an OSA, this could result in fewer securities than clients are entitled to being returned to them on MSIP’s insolvency. The way in which a shortfall could arise would be different as between ISAs and OSAs (see further below).

#### (a) How a shortfall may arise

A shortfall could arise for a number of reasons including as a result of administrative error, intraday movements or counterparty default following the exercise of rights of reuse. If agreed with the relevant clients, a shortfall may also arise in the case of an OSA as a result of securities belonging to one client being used or borrowed by another client for intra-day settlement purposes. Where we have been requested to settle a transaction for a client and that client has insufficient securities held with MSIP to carry out that settlement, MSIP generally has two options:

(i) in the case of both an ISA and an OSA, to only carry out the settlement once the client has delivered to MSIP the securities needed to meet the settlement obligation; or

(ii) in the case of an OSA, to make use of other securities held in that account to carry out settlement subject to an obligation on the part of the relevant client to make good that shortfall and subject to any relevant client consents required. Where option (ii) is used, this increases the risks to clients holding securities in the OSA as it makes it more likely that a shortfall in the account could arise as a result of the relevant client failing to meet its obligation to reimburse the OSA for the securities used. In the case of an ISA, only option (i) above would be available, which would prevent the use of securities in that account for other clients and therefore any resulting shortfall. However, it also increases the risk of settlement failure which in turn may incur additional buy in costs or penalties and/or may delay settlement as MSIP would be unable to settle where there are insufficient securities in the account. Where clients’ securities are held in an OSA, MSIP will use option (ii) unless directed otherwise in accordance with agreed contractual terms.

#### (b) Treatment of a shortfall

In the case of an ISA, the whole of any shortfall on that ISA would be attributable to the client for whom the account is held and would not be shared with other clients for whom MSIP holds securities. Similarly, the client would not be exposed to a shortfall on an account held for another client or clients. In the case of an OSA,

the shortfall would be shared among the clients with an interest in the securities held in the OSA (see further below). Therefore, a client may be exposed to a shortfall even where securities have been lost in circumstances which are completely unrelated to that client. The risk of a shortfall arising is, however, mitigated as a result of our obligation under the CASS Rules in certain situations to set aside MSIP’s own cash or securities to cover shortfalls identified during the process of reconciling our records with those of the CSDs with which securities are held. If a shortfall arose and was not covered in accordance with the CASS Rules, clients may have a claim against us for any loss suffered. If MSIP was to become insolvent prior to covering a shortfall, clients would rank as general unsecured creditors for any amounts owing to them in connection with such a claim. Clients would therefore be exposed to the risks of MSIP’s insolvency, including the risk that they may not be able to recover all or part of any amounts claimed. In these circumstances, clients could be exposed to the risk of loss on our insolvency. If securities were held in an ISA, the entire loss would be borne by the client for whom the relevant account was held. If securities were held in an OSA, the loss would be allocated between the clients with an interest in that account. In order to calculate clients’ shares of any shortfall in respect of an OSA, each client’s entitlement to securities held within that account would need to be established as a matter of law and fact based on MSIP’s books and records. Any shortfall in a particular security held in an OSA would then be allocated among all clients with an interest in that security in the account. It is likely that this allocation would be made rateably between clients with an interest in that security in the OSA, although arguments could be made that in certain circumstances a shortfall in a particular security in an OSA should be attributed to a particular client or clients. It may therefore be a time consuming process to confirm each client’s entitlement. This could give rise to delays in returning securities and initiate uncertainty for a client as to its actual entitlement on an insolvency. Ascertaining clients’ entitlements could also give rise to the expense of litigation, which could be paid out of clients’ securities.

### 3.2.3 SECURITY INTERESTS

#### (a) Security interest granted to third party

Security interests granted over clients’ securities could have a different impact in the case of ISAs and OSAs. Where a client purported to grant a security interest over its interest in securities held in an OSA and the security interest was asserted against the CSD with which the account was held, there could be a delay in the return of securities to all clients holding securities in the relevant account, including those clients who had not granted a security interest, and a possible shortfall in the account. However, in practice, Morgan Stanley would expect that the beneficiary of a security interest over a client’s securities would perfect its security by notifying Morgan Stanley rather than the relevant CSD and would seek to enforce the security against Morgan Stanley rather than against such CSD, with which it had no relationship. Morgan Stanley would also expect CSDs to refuse to recognise a claim asserted by anyone other than MSIP as an account holder.

#### (b) Security interest granted to CSD

Where a CSD benefits from a security interest over securities held for a client, there could be a delay in the return of securities to a client (and a possible shortfall) in the event that MSIP failed

to satisfy its obligations to the CSD and the security interest was enforced. This applies irrespective of whether the securities are held in an ISA or an OSA. However, in practice, Morgan Stanley would expect that a CSD would first seek recourse to any securities held in its own proprietary accounts to satisfy its obligations and only then make use of securities in client accounts. Morgan Stanley would also expect a CSD to enforce its security rateably across client accounts held with it. Furthermore, the CASS Rules restrict the situations in which we may grant a security interest over securities held in a client account.

### **3.3 CSD DISCLOSURES**

Certain disclosures prepared by CSDs can be found on the European Central Securities Depositories Association website. Morgan Stanley has not investigated or performed due diligence on the disclosures and clients rely on the CSD disclosures at their own risk.



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