

**MORGAN STANLEY & CO. LLC DIRECT CLIENT
DISCLOSURE STATEMENT REGARDING INDIRECT CLEARING**

In accordance with the provisions of Article 5(1) of the Indirect Clearing RTS,¹ this Direct Client Disclosure Statement is being made available to our customers in accordance with applicable requirements of the Indirect Clearing RTS.

I. Introduction

A. The purpose of this document.²

We are providing this Direct Client Disclosure Statement (**Statement**) to you because you have elected to enter into derivatives transactions that may be cleared by a clearing organization that is authorized as a central counterparty (**CCP**) in accordance with European Market Infrastructure Regulation (**EMIR**).³

Additionally, we are providing this Statement to you in compliance with our obligations as a direct client under the Indirect Clearing RTS, which requires that, where we are providing indirect clearing services to you that involve us clearing derivatives through a clearing member on a CCP, we must:

- (i) offer you a choice of a basic omnibus indirect client account or, where and to the extent available under applicable CCP rules, a gross omnibus indirect client account (as described in further detail in the Annex);
- (ii) publicly disclose the levels of protection and costs associated with different levels of segregation; and
- (iii) describe the main legal implications of different levels of segregation.

We have entered into relationships with one or more clearing members of one or more CCPs located in the European Union (**EU**) that are authorized by EMIR and which may also be registered with the Commodity Futures Trading Commission (**Commission**) as a derivatives clearing organization (**DCO**) in order to provide clearing services to our customers in connection with their transactions in exchange-traded derivatives (**ETDs**) cleared on EU CCPs (which include both futures and options on futures, and listed equity options).⁴ Because we are registered with the Commission as a futures commission merchant (**FCM**), and with the

1 Commission Delegated Regulation (EU) 2017/2154 of 22 September 2017 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council with regard to regulatory technical standards on indirect clearing arrangements (hereinafter, the “**Indirect Clearing RTS**”).

2 As used throughout this Statement, the terms “we”, “our” and “us” refer to the direct client, Morgan Stanley & Co. LLC (“**MS&Co.**”), a broker-dealer registered with the Securities and Exchange Commission and an FCM registered with the CFTC; the terms “you” and “your” refer to the customers of the direct client, or in the parlance of the Indirect Clearing RTS, the indirect client.

3 Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories.

4 The terms “CCP” and “DCO” are used interchangeably throughout this Statement.

Securities and Exchange Commission (SEC) as a broker-dealer, we must comply with the provisions of the US Commodity Exchange Act (CEA), the Commission's rules governing the protection of futures, foreign futures and cleared swaps customer assets and positions, the SEC's rules governing the protection of securities customer assets and positions, as well as EMIR and the Indirect Clearing RTS.

Article 30 of MiFIR⁵ and the Indirect Clearing RTS set out specific compliance requirements for entities that participate in indirect clearing arrangements in connection with ETDs.⁶ In particular, Article 30(1) of MiFIR requires that indirect clearing arrangements should not increase counterparty risk and ensure protections that are of "equivalent effect" to that provided for under EMIR. The term "indirect clearing arrangement" refers to a set of relationships – also called a "chain" – where at least two intermediaries are interposed between an end-client and the relevant CCP. The most basic indirect clearing chain therefore involves the following four entities: the CCP; a clearing member of the CCP; a direct client, *i.e.*, the client of the clearing member that is itself an intermediary; and an indirect client, *i.e.*, the client of the direct client. Longer chains are permitted in certain circumstances.

As a direct client FCM, we may not be able to provide you with the forms of indirect client segregated accounts that comply with the Indirect Clearing RTS in certain circumstances. In any such circumstance, you will therefore receive client segregation in compliance with the Commission's regulatory regime. To the extent that we are able, consistent with applicable U.S. law, to facilitate the opening of a form of segregated accounts that comply with the Indirect Clearing RTS at the clearing member level we will do so, either through operational facilities provided through the FCM, or by means of an introduction to our affiliate, Morgan Stanley & Co. International plc. Details regarding the forms of segregated accounts mandated under the Indirect Clearing RTS are provided in the Annex to this Statement.

B. How to use this Statement.

You should review the information provided in this Statement alongside the Risk Disclosure provided to you at the time you entered into a futures or listed options agreement with us (including the Clearing Member Disclosure in relation to Futures and Cleared Swaps Customer Clearing Services under EMIR contained therein or the Options Disclosure Document, as applicable). The MS&Co. Clearing Member Disclosure is available here: <http://www.morganstanley.com/institutional-sales/pdf/msco/FIA-Risk-Disclosure-Document.pdf?v=1>; the Options Disclosure Document is available here: <https://www.theocc.com/components/docs/riskstoc.pdf>; and the MS&Co. Firm-Specific Disclosure Documents provided in accordance with the requirements of CFTC Rule 1.55 is available here: <http://www.morganstanley.com/institutional-sales/pdf/msco/MSCO-FCM-Disclosures-2017.pdf?v=2>.

⁵ Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012.

⁶ "Exchange-traded derivative" is defined in Article 2(1)(32) of MiFIR to include any derivative traded on an EU regulated market or on any third-country trading venue determined to be "equivalent" to an EU regulated market for purposes of discharging MiFIR's mandatory trade execution obligations. No such equivalence determinations have yet been made.

C. Important Disclaimer

Although this Statement is intended to assist you in choosing the appropriate account structure for your business, this Statement does not constitute legal or any other form of advice and must not be relied on as such. The Statement does not provide all the information you may need to make your decision on which account structure is suitable for you. It is your responsibility to review and conduct your own due diligence on the relevant rules, legal documentation and any other information provided to you on each of our client account offerings and those of the various clearing members and CCPs on which we clear derivatives for you. You may wish to appoint your own professional advisors to assist you with this.

We will not in any circumstances be liable, whether in contract, tort, breach of statutory duty or otherwise for any losses or damages that may be suffered as a result of using this Statement. Such losses or damages include (a) any loss of profit or revenue, damage to reputation or loss of any contract or other business opportunity or goodwill, and (b) any indirect loss or consequential loss. No responsibility or liability is accepted for any differences of interpretation of legislative provisions and related guidance on which it is based. This paragraph does not extend to an exclusion of liability for, or remedy in respect of, fraudulent misrepresentation.

Please note that this disclosure has been prepared on the basis of US law except as otherwise stated. However, issues under other laws may be relevant to your due diligence, including for example, the law governing the CCP rules or related agreements; the law governing our insolvency; the law of the jurisdiction of incorporation of the CCP; and the law of the location of any assets.

II. A Significant Difference Between EU Rules and Commission Rules Governing Clearing of ETDs

We wish to highlight a significant difference between the manner in which ETDs are cleared in the EU, including as required by EMIR and the Indirect Clearing RTS, and in which they are cleared under the Commission's regulatory regime. Under the Indirect Clearing RTS, clearing members and direct clients must offer indirect clients a choice between a basic omnibus indirect client account and a gross omnibus indirect client account (as described in further detail in the Annex).⁷ Under the Commission's regulatory regime, direct client FCMs may provide only US omnibus client segregation to their indirect clients. The Commission's regulatory regime does not, however, preclude a direct client FCM from facilitating the opening of segregated accounts at the clearing member level in accordance with the Indirect Client RTS – for example, by means of an introduction to an EU CCP clearing member that is not registered as an FCM. However the protections associated with the Indirect clearing RTS will only be given effect for an indirect

⁷ Essentially, the Indirect Clearing RTS requires EU CCP clearing members to offer to their direct clients – and also requires those direct clients to offer to their indirect clients – a choice between two types of accounts: (i) a “net omnibus” segregated account in which with the assets and positions of all indirect clients of the direct client would be commingled separately from all other client accounts of both the EU clearing member and of the direct client, margined in accordance with a “net omnibus” methodology approved under applicable EMIR regulation; and (ii) a gross omnibus segregated account holding the assets and positions of indirect clients of the direct client and margined on a “gross omnibus” basis (and again, booked to separate indirect clearing accounts, not commingled with the collateral and positions of direct clients).

client of an FCM direct client in the event of the default of the non-FCM clearing member (which is not accompanied by the simultaneous default of the FCM direct client).

III. FCM Customer protection regime

We may receive assets from you to margin: (i) futures executed on a designated contract market (**DCM**) registered with the Commission;⁸ or (ii) ETDs executed on a regulated market that is a foreign board of trade.⁹

Under Commission rules, customer collateral received to margin futures executed on a DCM may not be commingled with funds received to margin ETDs on a regulated market that is a foreign board of trade.¹⁰

A. US Derivatives Exchanges

The provisions of the Commodity Exchange Act that provide for the segregation of customer funds held to margin, guarantee or secure futures and options on futures contracts traded on or subject to the rules of a US derivatives exchange require an FCM to treat and deal with all money, securities and property received by the FCM to margin the trades of any customer as belonging to such customer. Futures customer funds: (i) must be separately accounted for and may not be commingled with the FCM's funds or be used to margin, guarantee, or secure any trades or contracts of any other customer or person; and (ii) may be commingled in an omnibus account with a bank or trust company or with the DCO that clears futures on the behalf of the FCM's customers.

In addition, FCMs are required to create and maintain books and records concerning: (i) the identity of their customers; (ii) the positions held on behalf of each such customer; and (iii) the collateral deposited by each customer to margin such positions.

B. Non-US Derivatives Exchanges

The Commission's rules establish a regulatory regime for futures listed on foreign boards of trade which is comparable to the provisions governing US futures customer funds. The SEC's customer protection rules, and SEC staff guidance on transactions in options listed on non-US securities exchanges, govern customer transactions in non-US listed equity options. Generally, customer funds held for the purpose of trading non-US ETDs: (i) must be separately accounted for and may not be commingled with the FCM's funds or be used to margin, guarantee, or secure any trades or contracts of any other customer or person; and (ii) may be commingled in an omnibus account with a bank or trust company or with the CCP that clears exchange-traded

8 Certain CCPs also clear futures and options on futures contracts listed for trading on US designated contract markets. For example, ICE Clear Europe clears futures and options on futures contracts listed for trading on ICE Futures US. LCH Limited is permitted by the scope of its DCO registration to – but does not currently – clear futures and options on futures contracts listed for trading on DCMs.

9 Each of Eurex Clearing AG, ICE Clear Europe, LCH Limited and LCH SA clears futures and options on futures contracts listed for trading on one or more regulated markets.

10 In addition, any customer collateral we receive to margin cleared swaps may not be commingled with funds received to margin exchange-traded derivatives executed on either a DCM or a regulated market.

derivatives on the FCM's behalf. In addition, an FCM is required to maintain books and records concerning: (i) the identity of our customers; (ii) the positions held on behalf of each such customer; and (iii) the collateral deposited by each customer to margin such positions.

At the clearing member and CCP level, however, the rules of the jurisdiction otherwise governing the treatment of customer funds would ordinarily apply. Specifically, in the case of an EMIR-authorized CCP and a non-FCM clearing member, indirect client funds would ordinarily be held by the CCP and the clearing member in accordance with the Indirect Clearing RTS.

C. Foreign Options

SEC staff has issued no-action letters permitting members of non-US option exchanges to intermediate US institutional investors and qualified institutional buyers concerning options traded on non-US exchanges. (The letters are available on the SEC's website, here, under the heading Foreign Market Communications with QIBs: <https://www.sec.gov/divisions/marketreg/mr-noaction.shtml#market>.)

D. Indirect Clearing

Where we facilitate clearing of ETDs at an EU CCP through a clearing member that is not an FCM, we will facilitate the opening and maintenance of segregated accounts for you at the clearing member level in a form that complies with the Indirect Clearing RTS. A basic description of the indirect client account structures under the Indirect Clearing RTS are provided in the Annex.

However, in the event of our insolvency, the mandatory commodity broker liquidation provisions of the US Bankruptcy Code and Part 190 of the Commission's rules will apply. In other words, in the event of our insolvency, the positions in any accounts that we may open at the clearing member level that comply with the Indirect Clearing RTS, and the related assets, will be ported or liquidated pursuant to the requirements of the US Bankruptcy Code and the Commission's rules rather than in accordance with the Indirect Clearing RTS.

IV. Transfer, or porting, of customer assets and positions when an FCM is placed in bankruptcy

If an FCM is placed in bankruptcy, the FCM is liquidated in accordance with the commodity broker liquidation provisions of the US Bankruptcy Code and Part 190 of the Commission's rules. Customer securities positions of the FCM/broker-dealer would be liquidated in accordance with the provisions of the Securities Investor Protection Act and the rules thereunder (SIPA).

A. Transfer of customer assets and positions.

Once a direct client FCM has filed for, or is otherwise placed in bankruptcy, a clearing member may not transfer, or port, the positions and assets of non-defaulting customers to another FCM except as directed by the trustee on behalf of the FCM's estate and confirmed by the Bankruptcy Court. The trustee in bankruptcy, in coordination with the clearing member, will attempt to effect the transfer of all customer positions together with the money, securities, or other property

held to margin the commodity contracts. But there can be no guarantee as a matter of U.S. law that such efforts will be availing.

In the event customer accounts cannot be transferred, or only a partial transfer is accomplished, the trustee is further instructed to liquidate all remaining open positions. The Bankruptcy Code, SIPA and Part 190 of the Commission's rules require that losses arising in any account class of a defaulting FCM must be shared ratably among the members of that account class (where the three main account classes for futures customers are: customers holding positions traded on a DCM – i.e., U.S. futures; customers holding positions traded on a foreign board of trade – i.e., foreign futures; and customers holding cleared swap positions). Therefore, in the event that losses in any account class are so great that the FCM is unable to meet the shortfall with its own assets, a customer may be exposed to losses of other customers.¹¹

B. Authority of a CCP in the event of a shortfall in the exchange-traded derivatives customer omnibus account.

If, upon the bankruptcy of a direct client FCM, there is a shortfall in the ETD customer omnibus account caused by the default of one or more customers, the clearing member would be permitted to net and liquidate the positions held in the customer omnibus account and to use the proceeds of such liquidation to meet the defaulting direct client FCM's obligations to the clearing member with respect to the omnibus account.

C. Rights and Obligations of CCPs and Clearing Members Under EMIR and the Indirect Clearing RTS

The disclosure statement made available by our EU affiliate, Morgan Stanley & Co. International plc, describes in greater detail the rights and obligations of clearing members, their clients and CCPs under EMIR and the Indirect Clearing RTS in the event of a clearing member default. These rights and obligations differ in certain respects from the rights and obligations available under the Commodity Exchange Act and the Commission's regulatory regime. We note immediately below three significant differences.

1. Where porting is available under EMIR and the Indirect Clearing RTS, it is generally required for the client of a defaulting clearing member or the indirect client of a defaulting direct client to have designated a replacement clearing member or direct client, and for such replacement to consent to the transfer. Under the Commission's regulatory regime, the CCP or the clearing member, in coordination with the trustee for the insolvent FCM's estate, would attempt to identify non-defaulting FCMs that would be willing to accept the omnibus account. In the event such a transfer were effected, a customer might then be able to request that its account be transferred to another FCM or non-FCM clearing member.

2. Under EMIR Article 48(5), a CCP or clearing member must commit to transfer the assets and positions held by defaulting clearing member in an omnibus client segregated account or a gross omnibus indirect client account for a predefined period of time after the clearing member

¹¹ Consequently, even if an FCM were able to provide its customers segregated accounts in a form that complied with the Indirect Clearing RTS, such accounts would not provide any additional protection to customers in the event of the bankruptcy of the FCM.

or direct client becomes insolvent. Under the US Bankruptcy Code, once an FCM has filed for bankruptcy, no transfers of client assets and positions may occur without the consent of the bankruptcy trustee.

3. EMIR Article 48(7) provides that, where a balance is owed by the CCP in respect of a client segregated account of a defaulting clearing member, such amount must be readily returned directly to the relevant client, where such client's identity is known to the CCP, or otherwise to the defaulting clearing member for the account of its clients. These "leapfrog" payment provisions also apply to the return of proceeds in respect of an indirect client segregated account by the CCP to the direct client for the account of its indirect clients, where the identity of the relevant client is known. Finally, the Indirect Clearing RTS establishes an obligation on a clearing member to return liquidation assets directly to the indirect client of a defaulting direct client, where the indirect client has opted for a gross omnibus indirect client account. By contrast, under the Commission's regulatory regime and the US Bankruptcy Code, the bankruptcy trustee is responsible for liquidating the positions of non-porting customers of an insolvent FCM and distributing the liquidation proceeds ratably to customers.

ANNEX

Forms of Indirect Client Segregated Account

Under the Indirect Clearing RTS, there are generally two basic types of indirect client accounts available at the EU CCP level (subject to the applicable rules of each EU CCP): the Basic Omnibus Indirect Client Accounts and Gross Omnibus Indirect Client Accounts. Clearing members then open and maintain accounts corresponding to the relevant indirect clearing accounts at the CCP level as described in more detail below.

Please see the Indirect Clearing Disclosure provided by our affiliate, Morgan Stanley & Co. International plc, for an overview of the risks in relation to a Basic Omnibus Indirect Client Account and a Gross Omnibus Indirect Client Accounts as well as for details of the different levels of segregation that may be available at different CCPs.

1. Basic Omnibus Indirect Client Account¹²

Under this account type, at the level of the clearing member, your transactions (including corresponding assets in the clearing member's accounts) are segregated from:

- the clearing member's proprietary transactions and any of its assets;
- any transactions (including corresponding assets in the clearing member's accounts) relating to the direct client's own account or that of one of the clearing member's other clients;

¹² This description is based on Articles 4(2)(a) and 4(4)(a) of the Indirect Clearing RTS. Please note that we have based our analysis on the minimum requirements as set out in the Indirect Clearing RTS. Therefore, we have assumed that positions in a Basic Omnibus Indirect Client Account would be held on a net basis and margin would also be collected on a net basis.

- any transactions (including corresponding assets in the clearing member's accounts) relating to any clients of the clearing member's other clients that have also opted for a Basic Omnibus Indirect Client Account and which are recorded in a different Basic Omnibus Indirect Client Account; and
- any transactions (including corresponding assets in the clearing member's accounts) relating to other indirect clients of the direct client, or any clients of the clearing member's other clients, that have opted for a Gross Omnibus Indirect Client Account.

However, your transactions (including corresponding assets in the clearing member's accounts) will be commingled with the transactions (including corresponding assets in the clearing member's accounts) relating to any of our other clients that have also opted for a Basic Omnibus Indirect Client Account and which are recorded in the same Basic Omnibus Indirect Client Account. (Note that this is the structure in place today for the FCM's clearing of ETDs on foreign boards of trade.)

The clearing member will not net your transactions with its proprietary transactions or any transactions not recorded in the same Basic Omnibus Indirect Client Account, nor use the assets relating to such transactions with respect to any of its proprietary transactions or transaction recorded in any other client account.

However, the clearing member may net the transactions that are recorded in the same Basic Omnibus Indirect Client Account. The assets provided in relation to the transaction credited to that Basic Omnibus Indirect Client Account can be used in relation to any transaction credited to that Account.

2. Gross Omnibus Indirect Client Account¹³

Under this account type, at the level of the clearing member, your transactions (including the corresponding assets in our accounts) are segregated from:

- the clearing member's proprietary transactions and any of its assets;
- any transactions (including corresponding assets in the clearing member's accounts) relating to our own account or that of one of the clearing member's other clients;
- any transactions (including corresponding assets in the clearing member's accounts) relating to any of our clients or any clients of the clearing member's other clients that have also opted for a Basic Omnibus Indirect Client Account; and
- any transactions (including corresponding assets in the clearing member's accounts) relating to any clients of the clearing member's other clients that have opted for a Gross Omnibus Indirect Client Account and which are recorded in a different Gross Omnibus Indirect Client Account.

13 This description is based on Articles 4(2)(b) and 4(4)(b) of the Indirect Clearing RTS.

However, your transactions (including corresponding assets in the clearing member's accounts) will be commingled with the transactions (including corresponding assets in our accounts) relating to any of our other clients that have also opted for a Gross Omnibus Indirect Client Account and which are recorded in the same Gross Omnibus Indirect Client Account.

The clearing member will not net your transactions with its proprietary transactions, our transactions, the transactions relating to the clearing member's other clients, the client of the clearing members' other clients, or any transactions relating to our other clients (regardless of whether they are recorded in the same Gross Omnibus Indirect Client Account).

The clearing member will also agree not to use the assets relating to your transactions with respect to any of its proprietary transactions or client transactions recorded to any other account. However, the clearing member may use the assets provided in relation to your transactions in relation to any transaction relating to our other clients which are credited to the same Gross Omnibus Indirect Client Account.

The important difference between the two types of Indirect Client Account is the margin methodology under which each is collateralized at the CCP. The CCP and clearing member may use positional and risk netting (to the extent permitted under applicable EMIR-compliant CCP rules and procedures) to reduce the direct client's margin requirement in respect of a Basic Omnibus account. Such netting would not be applied in respect of a Gross Omnibus account. Accordingly, a direct client (and its indirect clients) would face higher margin requirements in order fully to collateralize positions held in a Gross Omnibus account than they would for a Basic Omnibus account.

Customers of MS&Co. who wish to clear their EU ETDs through a Gross Omnibus Indirect Client Account will be introduced to our affiliate, Morgan Stanley & Co. International plc, for that purpose. Should you wish to make any election relating to your indirect clearing arrangements please contact your Morgan Stanley representative. In the absence of such an election, your positions and collateral in respect of ETDs that are futures or options on futures and clearing on EU CCPs will be held by MS&Co. in a Basic Omnibus indirect clearing account at Morgan Stanley & Co. International plc and at each such EU CCP – at all times, in accordance with the Commission's rules relating to the safeguarding of foreign futures positions and collateral. Your positions and collateral in respect of ETDs that are listed equity options and clearing on EU CCPs will be held by MS&Co. in a separate Basic Omnibus indirect clearing account at Morgan Stanley & Co. International plc, at all times, in accordance with the SEC's rules relating to the safeguarding of customer security positions and collateral.