

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

Securities Act of 1933
Release No. 9054 / July 20, 2009

Administrative Proceeding
File No. 3-13558

In the Matter of

Morgan Stanley & Co.
Incorporated,

Respondent.

ORDER UNDER RULE 602(e) OF THE
SECURITIES ACT OF 1933 GRANTING A
WAIVER OF THE RULE 602(c)(3)
DISQUALIFICATION PROVISION

Morgan Stanley & Co. Incorporated (“Morgan Stanley”) has submitted a letter, dated June 17, 2009, requesting a waiver of the Rule 602(c)(3) disqualification from the exemption from registration under Regulation E arising from Morgan Stanley’s settlement of an administrative proceeding commenced by the Commission.

On July 20, 2009, pursuant to Morgan Stanley’s Offer of Settlement, the Commission issued against Morgan Stanley an Order Instituting Administrative and Cease-and-Desist Proceedings, Making Findings, and Imposing Remedial Sanctions, a Censure, and a Cease-and-Desist Order Pursuant to Section 15(b) of the Securities Exchange Act of 1934 and Sections 203(e) and 203(k) of the Investment Advisers Act of 1940. Under the Order, the Commission found that Morgan Stanley willfully violated Sections 204 and 206(2) of the Investment Advisers Act of 1940 (“Advisers Act”), and Rules 204-2(a)(7) and 204-2(a)(10) thereunder by breaching its fiduciary duty to certain of the firm’s advisory clients and prospective advisory clients of its Nashville, Tennessee branch office by making material misstatements regarding the process used to identify money managers, failing reasonably to supervise the former Morgan Stanley Financial Adviser in its Nashville office who serviced these clients, and failing to maintain (1) all account paperwork reflecting Morgan Stanley’s written agreements with its advisory clients; and (2) all written communications relating to recommendations of money managers. In the Order, the Commission ordered that Morgan Stanley be censured, cease and desist from committing or causing any violations and any future violations of Sections 204 and 206(2) of the Advisers Act, and Rule 204-2(a)(7) and 204-2(a)(10) thereunder, and pay a civil money penalty of \$500,000 to the United States Treasury.

The Regulation E exemption is unavailable for the securities of small business investment company issuers or business development company issuers if, among other things, any investment adviser or underwriter for the securities to be offered is subject to an order of the Commission entered pursuant to Section 15(b) of the Securities Exchange Act of 1934 or Section 203(e) of the Advisers Act. 17 C.F.R. § 230.602(c)(3). Rule 602(e) of the Securities Act of 1933 (“Securities Act”) provides, however, that the disqualification “shall not apply . . . if the Commission determines, upon a showing of good cause, that it is not necessary under the circumstances that the exemption be denied.” 17 C.F.R. § 230.602(e).

Based upon the representations set forth in Morgan Stanley’s request, the Commission has determined that pursuant to Rule 602(e) under the Securities Act a showing of good cause has been made that it is not necessary under the circumstances that the exemption be denied as a result of the Order.

Accordingly, **IT IS ORDERED**, pursuant to Rule 602(e) under the Securities Act, that a waiver from the application of the disqualification provision of Rule 602(c)(3) under the Securities Act resulting from the entry of the Order is hereby granted.

By the Commission.

Elizabeth M. Murphy
Secretary