

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-15982

In the Matter of

**MORGAN STANLEY AND CO. LLC;
MORGAN STANLEY ABS CAPITAL I INC.;**
**and MORGAN STANLEY MORTGAGE
CAPITAL HOLDINGS LLC**

Respondents.

PLAN OF DISTRIBUTION PLAN FOR MORGAN STANLEY FAIR FUND

A. Introduction

1. The Division of Enforcement has submitted this plan of distribution (the “Plan”) pursuant to Rule 1101 of the Commission’s Rules on Fair Fund and Disgorgement Plans (“Rules”), 17 C.F.R. § 201.1101. As described more specifically below, the Plan provides for the distribution of funds collected in the above-captioned matter to compensate investors harmed by securities violations of Morgan Stanley and Co. LLC (f/k/a Morgan Stanley and Co. Incorporated), Morgan Stanley ABS Capital I Inc., and Morgan Stanley Mortgage Capital Holdings LLC (collectively, “Morgan Stanley” or the “Respondents”) as described in the Order.¹

2. In the Order, the Commission charged the Respondents with misleading public disclosures regarding the number of previously or currently delinquent loans in two subprime residential mortgage-backed securities (“RMBS”) transactions offered in 2007 – Morgan Stanley

¹ See Order Instituting Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933, Making Findings, and Imposing a Cease-and-Desist Order, Securities Act Rel. No. 9617 (July 24, 2014).

ABS Capital I Inc. Trust 2007-NC4 (“NC4”) and Morgan Stanley ABS Capital I Inc. Trust 2007-HE7 (“HE7”) (collectively, the “Trusts”), in violation of Sections 17(a)(2) and (3) of the Securities Action of 1933. As stated in the Order, Morgan Stanley failed to remove or accurately disclose loans with either current and/or historical delinquencies, contrary to the disclosures made in each transaction’s offering documents.

3. Pursuant to the Order, the Respondents paid disgorgement of \$160,627,852, prejudgment interest of \$17,995,437 and a civil money penalty of \$96,376,711, for a total of \$275,000,000. The Order created a Fair Fund, pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, so the penalty, along with the disgorgement and interest, could be distributed to harmed investors.

4. The purpose of this distribution is to compensate investors in the Trusts harmed by Morgan Stanley’s misrepresentations and omissions in its offering materials. The distribution methodology allocates the Fair Fund amongst the two Trusts based on the actual and projected losses, as calculated by the Commission staff, of the misrepresented previously or currently delinquent loans contained in each Trust. The funds are then initially allocated to Eligible Claimant (as defined below) in each Trust based on the proportion of each claimant’s purchase amount in the Trust.

5. The Commission appointed Damasco & Associates, LLP, now known as Miller Kaplan Arase, LLP, as the tax administrator (“Tax Administrator”) of the Fair Fund on February 6, 2015.²

² See Order Appointing Tax Administrator, Exchange Act Rel. No. 74231 (Feb. 6, 2015).

6. The Commission issued an order appointing Garden City Group, LLC (“GCG”) as the fund plan administrator (“Fund Plan Administrator”) of the Fair Fund on February 4, 2016.³ Pursuant to that order, GCG obtained a bond in accordance with Rule 1105(c) of the Commission’s Rules on Fair Fund and Disgorgement Plans, 17 C.F.R. § 201.1105(c), in the amount of \$275,000,000. The amount of the bond premium will be paid by the Respondents.

7. Pursuant to the Order, the Respondents, shall jointly and severally, pay all reasonable administrative costs and expenses of the distribution, including the fees and expenses of the Tax Administrator and Fund Plan Administrator. The Tax Administrator and Fund Plan Administrator will submit invoices directly to the Respondents for payment with copies to Commission staff.

8. The Commission has custody of the Fair Fund and shall retain control of the assets of the Fair Fund. The Fair Fund is currently deposited in a Commission designated interest bearing account at the United States Department of the Treasury (“Treasury”), where it will be held until a disbursement occurs. It is not anticipated that the Fair Fund will receive additional funds, other than accumulated interest and earnings from investments. If any additional funds are received, those funds will either be added to the Fair Fund for disbursement to investors, or be sent to the Treasury and not distributed at the discretion of the Fund Plan Administrator, in consultation with the Commission staff.

9. This Plan sets forth the methods and procedures for distributing the Fair Fund. This Plan is approved by the Commission, and the Commission retains jurisdiction over the implementation of this Plan.

³ See Order Appointing Fund Plan Administrator and Setting Administrator Bond Amount, Exchange Act Rel. No. 77063 (Feb. 4, 2016).

B. Definitions

As used herein, the following definitions shall apply:

10. “Claim Deficiency Notice” shall mean the notice sent by the Fund Plan Administrator to a Potentially Eligible Claimant whose claim is deficient in one or more ways (e.g., failure to provide required information or documentation). The Claim Deficiency Notice shall advise the Potentially Eligible Claimant of the reason(s) for the deficiency and the opportunity to cure such deficiency. Subject to certain extensions provided for in this Plan, the deadline to cure deficiencies shall be thirty (30) days from the date of the Claim Deficiency Notice.

11. “Claim Determination Date” shall mean the date on or before which the Fund Plan Administrator is to reach its determination concerning the validity and amount of each claim. Except as otherwise provided herein, the Claim Determination Date shall be no later than one hundred eighty (180) days after the Filing Deadline.

12. “Claim Determination Notice” shall mean the notice sent by the Fund Plan Administrator on or before the Claim Determination Date advising Potentially Eligible Claimants of the Fund Plan Administrator’s determination regarding their claim.

13. “Days” shall mean calendar days, unless specified otherwise (will not be capitalized).

14. “Distribution *De Minimis* Amount” is \$250.00. No Eligible Claimant shall receive a distribution payment unless the Recognized Claim Amount, calculated pursuant to the Plan of Allocation below, is equal to or greater than \$250.00.

15. “Eligible Certificates” shall mean the certificates in the Trusts that are identified in Exhibit A to this Plan.

16. “Eligible Claimants” shall mean the persons or entities (other than Excluded Parties) who purchased Eligible Certificates during the respective Eligible Purchase Periods.

17. “Eligible Purchase Period(s)” shall mean for each Trust, purchases made on or before the date of the issuance of the first monthly remittance report issued to investors by the securities administrator for the Trust and not sold within that time-frame. For NC4, the Eligible Purchase Period ends on June 29, 2007. For HE7, the Eligible Purchase Period ends on October 24, 2007.

18. “Excluded Parties” shall mean the Respondents and all other entities or individuals who (a) are or have at any time been a parent, subsidiary, affiliate, partner or member of Respondents, (b) exercised control of or were controlled by Respondents, or (c) during the period 2007 to the present, were employed by, or served as officers or directors, or were members of Respondents or any other entity that is deemed to be an Excluded Party pursuant to parts (a) and (b) hereof. The Proof of Claim Form (defined in paragraph 29 below) will require all Potentially Eligible Claimants to certify under penalty of perjury that they are not an Excluded Party.

19. “Fair Fund” shall refer to all proceeds paid by the Respondents to comply with the Order including disgorgement, prejudgment interest, and civil penalties.

20. “Filing Deadline” shall mean the date established in accordance with this Plan by which a Potentially Eligible Claimant’s Proof of Claim Form must be postmarked or received by the Fund Plan Administrator, if not sent by U.S. Mail, to avoid the barring of any right of the Potentially Eligible Claimant to participate in any distribution from the Fair Fund. Subject to certain extensions provided for in this Plan, the Filing Deadline shall be one hundred twenty (120) days from the earliest date of the mailing of the Notice Packets.

21. “Fund Plan Administrator” shall mean GCG, the firm appointed by the Commission, pursuant to Rule 1105(a) of the Commission’s Rules on Fair Fund and Disgorgement Plans, 17 C.F.R. § 201.1105(a), to administer the Plan.

22. “HE7” shall mean Morgan Stanley ABS Capital I Inc. Trust 2007-HE7.

23. “NC4” shall mean Morgan Stanley ABS Capital I Inc. Trust 2007-NC4.

24. “Net Available Fair Fund” shall mean the Fair Fund, plus any accrued interest and earnings thereon, less investment fees and any taxes that may be assessed against the Fair Fund.

25. “Notice Packet” shall mean a packet mailed to Potentially Eligible Claimants, which shall include, at a minimum, a notice to Potentially Eligible Claimants of their potential right to participate in the distribution of the Fair Fund and their obligation to file a Proof of Claim Form in order to participate, a summary of the Plan of Allocation, and a Proof of Claim Form.

26. “Plan of Allocation” refers to the provisions in paragraphs 59 through 64 below, which describe the methodology used to calculate a Recognized Claim Amount for an Eligible Claimant.

27. “Potentially Eligible Claimant” shall mean those persons or entities identified by the Fund Plan Administrator as having possible claims to recover from the Net Available Fair Fund under this Plan, or persons or entities asserting that they have possible claims to recover from the Net Available Fair Fund under this Plan.

28. “Preliminary Recovery Amount” in a Trust shall mean an Eligible Claimant’s Recognized Claim Amount if all investors submitted claims related to their initial purchases in the Trust equal to the offering size of the Trust.

29. “Proof of Claim Form” shall mean the form designed by the Fund Plan Administrator, in consultation with Commission staff, in accordance with the terms of this Plan

for the filing of a claim, which form shall require, at a minimum, sufficient documentation of the Potentially Eligible Claimant's purchases of Eligible Certificates during the Eligible Purchase Periods and subsequent sales, if any.

30. "Recognized Claim Amount" shall be the Eligible Claimant's compensable allocation amount calculated pursuant to the methodology of the Plan of Allocation below.

31. "Recovery Cap" refers to certain calculations limiting the size of an Eligible Claimant's Recognized Claim Amount as provided in paragraph 63.

32. "Rejection Notice" shall mean the notice sent by the Fund Plan Administrator to a Potentially Eligible Claimant stating the Fund Administrator's determination that the Potentially Eligible Claimant's claim is not eligible to receive any distribution.

33. "Request for Reconsideration Deadline" shall mean the date established in accordance with this Plan by which a Potentially Eligible Claimant's dispute of a Rejection Notice must be filed to challenge the Rejection Notice. Subject to certain extensions provided for in this Plan, the deadline to file such request shall be thirty (30) days from the date of the Rejection Notice.

34. "Residual Payment" shall mean a payment to an Eligible Claimant from any funds remaining in the Net Available Fair Fund after the payment of the Recognized Claim Amounts of Eligible Claimants.

35. "Summary Notice Publication" shall mean the notice published in PR Newswire and Investor's Business Daily. Such notice (the text of which shall be approved by the Commission staff) shall include, at a minimum, a statement that the Fair Fund relates to purchases of Eligible Certificate(s) during the Eligible Purchase Period(s) and the means of obtaining a Notice Packet.

36. “Tax Administrator” shall mean Damasco & Associates LLP, now known as Miller Kaplan Arase LLP, the firm appointed by the Commission.

C. Allocation of the Fair Fund amongst Eligible Claimants

37. The Net Available Fair Fund shall be distributed to Eligible Claimants as provided under the terms of this Plan.

38. The Net Available Fair Fund shall be distributed on a *pro rata* basis, subject to certain minimum and maximum thresholds on Eligible Claimants’ Recognized Claim Amounts, as provided for in the Plan of Allocation below.

D. Administration of the Claims Procedures

General Administration Provisions

39. The Fund Plan Administrator shall oversee the administration of the claims, procedures, and distribution as provided in this Plan. The Fund Plan Administrator shall review the claims of Potentially Eligible Claimants and make determinations under the criteria established herein as to the eligibility of claimants to recover monies and the amount of money to be distributed from the Net Available Fair Fund to each Eligible Claimant.

40. Any claim asserted by a Potentially Eligible Claimant shall be in writing and shall provide adequate documentary evidence to substantiate the claim, including all documentary evidence that the Fund Plan Administrator deems necessary or appropriate including, but not limited to, if available, account statements and trade confirmations.

41. The recipient of Eligible Certificates as a gift, transfer, inheritance, devise or operation of law shall be eligible to file a Proof of Claim Form and participate in the distribution of the Fair Fund only to the extent the particular donor or decedent as the actual purchaser of Eligible Certificates would have been eligible. The recipient of Eligible Certificates purchased

during the respective Eligible Purchase Periods by gift, transfer, inheritance, devise, or operation of law shall not otherwise be eligible to file a Proof of Claim Form with respect to such securities, and shall not be deemed the assignee of any claim relating to the purchase of such securities unless specifically so provided in the instrument of gift or assignment. However, the donee and the donor may not both make a claim with regard to the same Eligible Certificates. If both the donor and the donee make such a claim, only the claim filed by the donee will be honored.

42. Regarding claims on behalf of a retirement plan covered by Section 3(3) of ERISA, 29 U.S.C. § 1002(3), which do not include Individual Retirement Accounts, and for which such claims are properly made by the custodian or fiduciary of the retirement plan and not by the retirement plan's participants, the Fund Plan Administrator shall distribute any payments on such claims directly to the custodian or fiduciary of the retirement plan. The distribution shall be accompanied by a list of retirement plan participants and the number of shares owned by each retirement plan participant, if that information is known to the Fund Plan Administrator or provided to the Fund Plan Administrator. The custodian or fiduciary of the retirement plan shall distribute any payments received in a manner consistent with its fiduciary duties and the account or retirement plan provisions. With respect to any retirement plan that has been closed prior to the Fund Plan Administrator's identification of Eligible Claimants, the Fund Plan Administrator shall endeavor to distribute funds directly to the beneficial account holders of such retirement plans if the information required for such a distribution is known to or provided to the Fund Plan Administrator prior to the Filing Deadline.

43. The Fund Plan Administrator shall take reasonable and appropriate steps to distribute the Fair Fund according to this Plan. The Fund Plan Administrator will inform Commission staff of any changes needed to this Plan. Upon agreement with Commission staff,

the Fund Plan Administrator may implement immaterial changes to this Plan to effectuate the general purposes. If a change is deemed to be material by Commission staff, Commission approval is required prior to implementation by amending this Plan.

44. The Fund Plan Administrator may extend any procedural deadline contained in this Plan for good cause shown, if agreed upon by the Commission staff in writing.

Identification of and Notice to Potentially Eligible Claimants

45. The Commission staff has provided the Fund Plan Administrator with a list of the names and addresses of known Potentially Eligible Claimants who purchased Eligible Certificates during respective Eligible Purchase Periods.

46. Following the entry by the Commission of its order approving this Plan, the Fund Plan Administrator shall:

- a. Design a Notice Packet, which shall be submitted to Commission staff for review and approval;
- b. Create a mailing and claim database of the known Potentially Eligible Claimants provided by Commission staff as described in paragraph 45 above;
- c. To the extent the Fund Plan Administrator is able to locate contact information for the known Potentially Eligible Claimants included on the lists provided by the Commission staff, the Fund Plan Administrator will contact each known Potentially Eligible Claimant to alert them to the approval of this Plan and to obtain an email address to which the Notice Packet will be sent;
- d. Email, or mail by United States First Class Mail if an email address is not available, a Notice Packet to each Potentially Eligible Claimant;
- e. Establish and maintain a website, www.MSFairFund.com, dedicated to the Fair

Fund from which Potentially Eligible Claimants may obtain a copy of the Plan, the Notice Packet and other relevant documents;

- f. Provide a copy of the Plan to Commission staff for posting to the Information for Harmed Investors page of SEC.gov and establishing a link to the Fair Fund's website;
- g. Establish a toll-free telephone call-in number by which Potentially Eligible Claimants can obtain information about the Fair Fund; and
- h. Publish a copy of the Summary Notice Publication, approved by Commission staff, in PR Newswire and Investor's Business Daily

47. On an ongoing basis, after the first Notice Packet is emailed or mailed but before the Filing Deadline, the Fund Plan Administrator shall continue to supply the Notice Packet to Potentially Eligible Claimants who contact the Fund Plan Administrator requesting a copy via mail, phone or email.

48. For those Notice Packets that are sent by email, but which are returned as undeliverable, the Fund Plan Administrator will mail a copy of the Notice Packet to the Potentially Eligible Claimant.

49. For those Notice Packets that are mailed and are returned as undeliverable by the U.S. Postal Service, the Fund Plan Administrator shall attempt to locate an updated address for the Potentially Eligible Claimant through the U.S. Postal Service NCOA database and/or any other commercially reasonable method and shall immediately re-mail any returned undelivered mail for which the Fund Plan Administrator has obtained a forwarding address.

50. Unless extended by the Commission or pursuant to paragraph 44 above, the claims period shall be no more than one hundred twenty (120) days from the earliest date of mailing of

Notice Packets to Potentially Eligible Claimants.

51. To avoid being barred from asserting a claim, on or before the Filing Deadline, each Potentially Eligible Claimant must submit to the Fund Plan Administrator a properly completed Proof of Claim Form, together with all required supporting documentation. The Fund Plan Administrator may extend the Filing Deadline for one or more Potentially Eligible Claimants for good cause shown, with approval by Commission staff, in which event such extension shall constitute the Filing Deadline for such Potentially Eligible Claimant. Such decisions of the Fund Plan Administrator and Commission staff are final and not subject to challenge. The burden shall be upon the Potentially Eligible Claimant to ensure that its Proof of Claim Form has been postmarked or received by the Fund Plan Administrator, if not sent by U.S. Mail, on or before the Filing Deadline.

Review of Claims and Notification of Claims Determination, Including Notice of Deficient Claims and Opportunity to Cure

52. The Fund Plan Administrator shall review each Proof of Claim Form received to determine the validity and amount of each Potentially Eligible Claimant's claim, together with any additional conclusions of the Fund Plan Administrator on other issues relevant to the claim. Each Potentially Eligible Claimant shall have the burden of proof to establish the validity and amount of his, her, or its claim, and that he, she, or it qualifies as an Eligible Claimant; and the Fund Plan Administrator shall have the right to request, and the Potentially Eligible Claimant shall have the burden of providing to the Fund Plan Administrator, any additional information and/or documentation deemed relevant by the Fund Plan Administrator.

53. The Fund Plan Administrator shall provide to each Potentially Eligible Claimant whose claim is deficient, in whole or in part, a Claim Deficiency Notice setting forth the reason(s) why the claim is deficient and instructions on how to cure the deficiency.

54. Any Potentially Eligible Claimant who has received a Claim Deficiency Notice shall have thirty (30) days from the date of the Claim Deficiency Notice to cure any deficiencies identified in the Claim Deficiency Notice.

55. A Potentially Eligible Claimant who has failed to file an appropriate Proof of Claim Form in a timely manner, or who has failed to cure a deficiency identified in a Claim Deficiency Notice in a timely manner, is not permitted to object to the barring or denial of his, her, or its claim on the basis that:

- a. The Fund Plan Administrator failed to mail, or properly to mail, or that such Potentially Eligible Claimant failed to receive, a copy of the Notice Packet, Proof of Claim Form, Claim Deficiency Notice, or the relevant Rejection Notice;
- b. The Fund Plan Administrator failed to record properly the receipt of an initial Proof of Claim Form, or a revised Proof of Claim Form to cure deficiencies, or the requisite supporting documentation; or
- c. A Potentially Eligible Claimant's name and/or proper contact information was not properly recorded in the Fund Plan Administrator's records.

56. In rejecting any Proof of Claim Form, the Fund Plan Administrator shall advise each Potentially Eligible Claimant of the basis for the rejection of the claim by Rejection Notice. Any Potentially Eligible Claimant who objects to the Fund Plan Administrator's determination of eligibility or wishes the Fund Plan Administrator to reconsider its denial must so advise the Fund Plan Administrator in writing with a Request for Reconsideration within thirty (30) calendar days of the Rejection Notice. The Fund Plan Administrator shall promptly consider any such Request for Reconsideration and shall notify the Potentially Eligible Claimant in writing of that decision.

57. All claimants have the burden of providing the Fund Plan Administrator with any changes to his, her or its name or mailing address.

58. All determinations made by the Fund Plan Administrator in accordance with this Plan shall be final.

Plan of Allocation

59. The Net Available Fair Fund will be allocated among the Trusts in proportion to the actual and projected losses of the misrepresented previously or currently delinquent loans contained in each Trust, as calculated by Commission staff. NC4 will be allocated 14% of the Net Available Fair Fund, and HE7 will be allocated 86% of the Net Available Fair Fund.

60. The Net Available Fair Fund will be allocated among Eligible Claimants who purchased one or more Eligible Certificate during the respective Eligible Purchase Periods. (See Exhibit A for the CUSIPs of the Eligible Certificates.) An Eligible Claimant's Recognized Claim Amount will be calculated using his, her or its initial purchase amount of Eligible Certificates in each Trust, according to the steps outlined in paragraphs 61-64 below.

61. The Preliminary Recovery Amount will be calculated for each investor by dividing the investor's initial purchase amount in the Trust by the total offering size of the Trust and multiplying by the Net Available Fair Fund allocated to that Trust. For example, if an investor's initial purchase in HE7 Eligible Certificates was 5% of the offering amount of HE7, the investor's Preliminary Recovery Amount would be 5% of the Net Available Fair Fund allocated to HE7.

62. To the extent that not all investors in a Trust submit valid claims, unclaimed or remaining amounts may be allocated to the Eligible Claimants who do submit valid claims, thereby increasing the Recognized Claim Amounts for those claimants above their Preliminary Recovery Amounts, subject to the Recovery Cap provision in paragraph 63. Such allocation will

be on a *pro rata* basis, according to the Eligible Claimant's initial purchase amount relative to the sum of initial purchase amounts of all Eligible Claimants who submit valid claims. For example, if an investor in HE7 with a Preliminary Recovery Amount of \$2,000,000 does not submit a valid claim, that amount may be allocated to Eligible Claimants who did submit valid claims. If Eligible Claimant A's initial purchase amount is 8% of the sum of initial purchase amounts of all Eligible Claimants who do submit claims, then Eligible Claimant A's Recognized Claim Amount may be increased by as much as \$160,000 (8% of \$2,000,000) above his, her or its Preliminary Recovery Amount.

63. An Eligible Claimant's Recognized Claim Amount will in no case exceed the Eligible Claimant's Recovery Cap, defined as follows.

- a. An Eligible Claimant who sold his, her, or its Eligible Certificate in a Trust before the end of the Trust's Eligible Purchase Period will have a Recovery Cap for that Eligible Certificate equal to zero (\$0.00).
- b. An Eligible Claimant who sold his, her, or its Eligible Certificate in a Trust after the Trust's Eligible Purchase Period and on or before the date of the Commission's Summary Notice Publication will have a Recovery Cap for that Eligible Certificate equal to his, her or its realized principal losses, measured as the difference between (1) the original face value of the Eligible Certificate, and (2) the sum of (i) principal distributions received up to and including the date of sale, and (ii) the face value of the Eligible Certificate on the date of the sale, multiplied by the clean price received for the Eligible Certificate.⁴

⁴ The clean price is defined as the transaction price excluding accrued interest, and shall be expressed in cents per dollar.

- c. An Eligible Claimant who held/owned his, her, or its Eligible Certificate after the date of the Summary Notice Publication will have a Recovery Cap for that Eligible Certificate equal to his, her or its principal losses, measured as the difference between (1) the original face value of the Eligible Certificate, and (2) the sum of (i) principal distributions received as of and including the date of the Summary Notice Publication, and (ii) the face value of the Eligible Certificate as of the date of the Summary Notice Publication, multiplied by the closing price of the Eligible Certificate on that date as determined by the Fund Plan Administrator.⁵

64. Any Eligible Claimant whose Preliminary Recovery Amount is less than the Distribution *De Minimis* Amount will be removed from the pool of Eligible Claimants.

Provisions for the Tax Administrator

65. The Fair Fund is a “Qualified Settlement Fund” within the meaning of the regulations issued under Section 468B (g) of the Internal Revenue Code of 1986, as amended. The Tax Administrator is the administrator of such Qualified Settlement Fund, for purposes of Treas. Reg. § 1.468B-2(k)(3)(I), and shall satisfy the tax related administrative requirements imposed by Treas. Reg. §§ 1.468B-1 through 1.468B-5, including, but not limited to:

- a. obtaining a taxpayer identification number;
- b. timely requesting funds necessary for the timely payment of all applicable taxes, the timely payment of taxes for which the Tax Administrator has received funds, and the filing of applicable returns; and

⁵ While some previous distribution plans involving RMBS transactions provided the Fund Plan Administrator, with the agreement of the Commission staff, discretion in determining the amount of recognized claims in the event that a claimant would potentially receive a recovery greatly in excess of his, her, or its recovery if all investors submitted claims, such discretion was never exercised to limit a claimant’s recovery to below that provided by the Recovery Cap mechanism in this Plan.

c. fulfilling any information reporting or withholding requirements required for distributions from the Net Available Fair Fund.

66. The Fund Plan Administrator shall cooperate with the Tax Administrator in providing any information necessary to ensure income tax compliance.

67. All taxes will be paid from the Fair Fund, subject to the review and approval of Commission staff.

Procedures for Distributing the Fair Fund

68. The Fund Plan Administrator shall distribute the Net Available Fair Fund to all Eligible Claimants only after all timely submitted Proof of Claim Forms have been processed and all Potentially Eligible Claimants whose claims have been rejected or disallowed, in whole or in part, have been notified and provided the opportunity to cure pursuant to the procedures set forth above.

69. Within thirty (30) days after the Claim Determination Date, the Fund Plan Administrator shall prepare a list of Eligible Claimants and each Eligible Claimant's Recognized Claim Amount (the "Payment File").

70. The Fund Plan Administrator will also provide a "reasonable assurances letter" to the Commission staff, representing that the Payment File: (a) was compiled in accordance with this Plan; (b) is accurate as to Eligible Claimants' names, addresses, and Recognized Claim Amounts; and (c) provides all information necessary to make payments to each Eligible Claimant.

71. Upon receipt of the Payment File and reasonable assurances letter, the Commission staff will seek an order from the Commission to disburse the funds identified in the Payment File in accordance with the provisions of this Plan, pursuant to Rule 1101(b)(6), of the Commission's Rules on Fair Fund and Disgorgement Plans, 17 C.F.R. § 201.1101(b)(6). Upon issuance of an

order to disburse by the Commission, Commission staff will direct the transfer of funds to the escrow account (“Escrow Account”). The Fund Plan Administrator shall then distribute the funds to Eligible Claimants as provided for in this Plan.

72. Prior to disbursement of the Net Available Fair Fund, the Fund Plan Administrator will establish account(s) described in the following paragraph at a United States commercial bank (the “Bank”), not unacceptable to the Commission staff.

73. The Fund Plan Administrator shall establish with the Bank an Escrow Account pursuant to an escrow agreement (the “Escrow Agreement”) to be provided by the Commission staff, in the name of and bearing the Employer Identification Number (“EIN”) of the Qualified Settlement Fund as defined in paragraph 65 above. The Fund Plan Administrator shall also establish with the Bank a separate deposit account (“Deposit Account”) (*e.g.*, controlled distribution account, managed distribution account, linked checking and investment account) for the purpose of funding payments to Eligible Claimants by the Fund Plan Administrator pursuant to this Plan. The name of each account shall be in the following form: Morgan Stanley Fair Fund (EIN XX-XXXXXXX), as custodian for the benefit of investors allocated a distribution pursuant to the Plan in *In the Matter of Morgan Stanley and Co. LLC; Morgan Stanley ABS Capital I Inc.; and Morgan Stanley Mortgage Capital Holdings LLC*, Administrative Proceeding File No. 3-15982.

74. During the term of the Escrow Agreement, if invested, the Escrow Account shall be invested and reinvested in short-term United States Treasury securities backed by the full faith and credit of the United States Government or an agency thereof, of a type and term necessary to meet the cash liquidity requirements for payments to Eligible Claimants, and tax obligations, including investment or reinvestment in a bank account insured by the Federal Deposit Insurance

Corporation (“FDIC”) up to the guaranteed FDIC limit, or in money market mutual funds registered under the Investment Company Act of 1940 that invest 100% of their assets in direct obligations of the United States government. The Fund Plan Administrator shall provide duplicate original bank and/or investment statements on any accounts established by the Fund Plan Administrator to the Tax Administrator on a monthly basis and shall assist the Tax Administrator in obtaining mid-cycle statements, as necessary.

75. The Fund Plan Administrator shall deposit or invest funds in the Escrow and Deposit Accounts so as to result in the maximum reasonable net return, taking into account the safety of such deposits or investments. In consultation with the Commission staff, the Fund Plan Administrator shall work with the Bank on an ongoing basis to determine an allocation of funds between the Escrow and Deposit Accounts.

76. All funds shall remain in the Escrow Account, separate from bank assets, pursuant to the Escrow Agreement until needed to satisfy a presented check. All Fair Fund checks presented for payment or electronic transfer will be subject to “positive pay” controls (*e.g.*, check number and check amount) before they are honored by the Bank, at which time funds will be transferred from the Escrow Account to the Deposit Account to pay the approved checks.

77. All payments to Eligible Claimants shall be preceded or accompanied by a communication that includes, as appropriate: (a) a statement characterizing the distribution; (b) a statement that the tax treatment of the distribution is the responsibility of each recipient and that the recipient should consult his, her or its tax advisor for advice regarding the tax treatment of the distribution; (c) a statement that checks will be void after ninety (90) days; and (d) contact information for the Fund Plan Administrator, to be used in the event of any questions regarding the distribution. Any such information letter or other mailing to recipients characterizing their

distributions shall be submitted to the Commission staff and Tax Administrator for review and approval. Distribution checks, on their face, or in the accompanying mailing will clearly indicate that the money is being distributed from a Fair Fund established by the Commission to compensate investors for harm as a result of securities law violations.

78. The Fund Plan Administrator, and/or each of its designees, agents and assistants, shall be entitled to rely on all outstanding rules of law; and any orders issued by the Commission, the Secretary by delegated authority or an Administrative Law Judge; and/or any investor information provided by Commission staff.

79. The submission of the Proof of Claim Form and the receipt and acceptance of a distribution by an Eligible Claimant is not intended to be a release of an Eligible Claimant's rights and claims against any party.

80. All checks will bear a stale date of ninety (90) days from the date of the check. Checks that are not negotiated before the stale date shall be voided and the issuing financial institution shall be instructed to stop payment on those checks. An Eligible Claimant's claim will be extinguished if he, she or it fails to negotiate his, her or its check by the stale date, and the funds will remain in the Fair Fund. If a check reissue has been requested before the stale date, such request is governed by paragraphs 81 and 82 below.

Returned or Un-Cashed Checks

81. The Fund Plan Administrator shall use its best efforts to make use of reasonable commercially available resources and other reasonably appropriate means to locate all Eligible Claimants whose checks are returned to the Fund Plan Administrator as undeliverable by the U.S. Postal Service. Where new address information becomes available, the Fund Plan Administrator shall reissue the distribution check and send it to the new address. Where new address information

is not available after a diligent search (and in no event later than ninety (90) days after the initial mailing of the original check), the check shall be voided and the Fund Plan Administrator shall instruct the issuing financial institution to stop payment on such check. Such reissued checks will be void either thirty (30) days after issuance or ninety (90) days after the issuance of the original check, whichever is later.

82. The Fund Plan Administrator shall reissue checks to Eligible Claimants upon the receipt of a valid written request from an Eligible Claimant. In cases where an Eligible Claimant is unable to endorse a distribution check as written (*e.g.*, name change as a result of divorce or an Eligible Claimant is deceased), and the Eligible Claimant or its lawful representative requests the reissuance of a distribution check under a different name, the Fund Plan Administrator will request, and must receive, documentation supporting the change. The Fund Plan Administrator will review the documentation to determine the authenticity and propriety of the change request. If the Fund Plan Administrator, in its discretion, deems such change request is properly documented, the Fund Plan Administrator will issue an appropriately redrawn check to the requesting party. Such reissued checks will be void either thirty (30) days after issuance or ninety (90) days after the issuance of the original check, whichever is later.

Residual Funds and Final Accounting

83. Approximately one (1) year following initial distribution, after all taxes of the Net Available Fair Fund have been satisfied, if there are remaining funds allocated to a Trust, the Commission staff may, at its discretion, direct the Fund Plan Administrator to distribute those residual funds, if any, from that Trust to Eligible Claimants, who filed, otherwise valid, claims with the Fund Plan Administrator after the Filing Deadline or who were late in curing a previously deficient claim. The allocation of any residual funds to be distributed to these late claimants

would be made only within the Trust that was the source of the residual funds, and not across any other Trusts. A late Eligible Claimant will receive a distribution payment up to the Recognized Claim Amount that he, she, or it would have received if the claim had been filed on time, the amount depending on the available residual funds for that Trust.

84. If any funds remain after the payment of claims that were filed late or cured after the Filing Deadline, or if no such claims exist, Commission staff may at its discretion direct the Fund Plan Administrator to allocate those residual funds on a *pro rata* basis up to the claimant's Recognized Claim Amount ("Residual Payments") for claims paid and checks cashed to all Eligible Claimants who cashed a distribution check or received an electronic payment.

85. If, after consultation between the Fund Plan Administrator and Commission staff, a distribution described in either paragraph 83 or 84, above, is not deemed cost effective or would result in an Eligible Claimant receiving a combined Recognized Claim Amount and Residual Payment in excess of his, her or its Recovery Cap, the remaining funds shall be transmitted to the Commission for transfer to the Treasury after a final accounting has been completed per the terms of paragraph 88 below.

86. Upon final distribution of the funds, the Fund Plan Administrator shall make arrangement for the final payment of taxes and shall submit a final accounting to the Commission in a standard accounting format provided by the Commission staff. The Fair Fund shall be eligible for termination, and the Fund Plan Administrator eligible for discharge and cancellation of its bond, after all of the following have occurred: (a) the final accounting has been submitted and approved by the Commission; (b) all taxes and fees have been paid; and (c) any remaining funds have been paid to the Commission for transfer to the Treasury. When the Commission has approved the final accounting, the Commission staff will seek an order from the Commission: (a)

to send the remaining funds to the Treasury; (b) to terminate the Fair Fund; (c) to discharge the Fund Plan Administrator; and (d) to cancel the Fund Plan Administrator's bond.

Filing of Reports and Accountings

87. The Fund Plan Administrator shall provide the Commission staff a quarterly accounting, in a format to be provided by Commission staff, within ten (10) days after the end of every calendar quarter. Once the funds have been transferred to the Fund Plan Administrator for distribution, the Fund Plan Administrator will also provide a quarterly cash report, which will inform the Commission of all monies earned or received and all monies spent in connection with the administration of the Plan.

88. When the final distribution is completed, the Fund Plan Administrator shall provide to Commission staff a final report summarizing all tasks undertaken and the outcome of its administrative efforts. In addition to the final report, the Fund Plan Administrator shall submit a final accounting to the Commission, as provided in paragraph 86, of all monies received, earned, spent, and distributed in connection with the administration of this Plan in a format provided by Commission staff.

89. Pursuant to Commission staff direction, the Fund Plan Administrator will either turnover to Commission staff or destroy all documents, including documents in any media, six (6) years after the approval of the final accounting. In addition, the Fund Plan Administrator will shut down the toll-free number and website established specifically for the administration of the Fair Fund upon the transfer of any remaining funds to the Commission.

EXHIBIT A

Morgan Stanley ABS Capital I Inc. Trust 2007-HE7 ("HE7")	
SERIES	ELIGIBLE CUSIPs
MSAC 07-HE7 A1	61756YAA1
MSAC 07-HE7 B1	61756YAK9
MSAC 07-HE7 B3	61756YAM5
MSAC 07-HE7 M1	61756YAE3
MSAC 07-HE7 M2	61756YAF0
MSAC 07-HE7 M3	61756YAG8
MSAC 07-HE7 M5	61756YAJ2

Morgan Stanley ABS Capital I Inc. Trust 2007-NC4 ("NC4")	
SERIES	ELIGIBLE CUSIPs
MSAC 07-NC4 A1	61755EAA6
MSAC 07-NC4 A2A	61755EAB4
MSAC 07-NC4 A2B	61755EAC2
MSAC 07-NC4 A2C	61755EAD0
MSAC 07-NC4 A2D	61755EAE8
MSAC 07-NC4 B1	61755EAH1
MSAC 07-NC4 B2	61755EAJ7
MSAC 07-NC4 B3	61755EAK4
MSAC 07-NC4 M1	61755EAF5
MSAC 07-NC4 M2	61755EAG3