

Salary Reduction Simplified Employee Pension (SAR-SEP) Plan Employer Adoption Agreement For Use with the Traditional IRA Application

Employer's Guide to the SAR-SEP Plan

Salary Reduction Simplified Employee Pension or SAR-SEP

A SAR-SEP is a retirement plan that is easy to establish and administer.

- SAR-SEP contributions under the Morgan Stanley Smith Barney LLC Salary Reduction Simplified Employee Pension ("SAR-SEP") Plan are made to Individual Retirement Accounts/Annuities ("IRAs") established by or for eligible employees of the employer and each related employer. (See your tax advisor and Internal Revenue Code Section 414 to determine related employers.)
- SAR-SEP contributions generally are deductible when made, subject to the limits of the Internal Revenue Code, and the earnings on those contributions accumulate on a tax-deferred basis in the IRAs.
- A SAR-SEP is generally exempt from most reporting and disclosure requirements that apply to other retirement plans (such as Form 5500 filings), as further described below.

For more details, refer to the Salary Reduction Simplified Employee Pension Plan documents that are included in this booklet — Adoption Agreement, the Plan document, Information for Employees and Notice to Employees.

SAR-SEP Plan-Employer Eligibility and Contributions

The SAR-SEP Plan allows discretionary employer contributions and employee salary reduction contributions. **However, only plans adopted prior to January 1, 1997 are permitted to accept salary reduction contributions. Thus, you should only use this document to amend and restate an already existing salary reduction SEP adopted prior to that date.** Furthermore, a salary reduction SEP is only available to employers with 25 or fewer eligible employees, and at least 50% of the eligible employees must elect to contribute to the salary reduction SEP. For this purpose, all employees of the employer adopting the SAR-SEP Plan and all related employers must be considered.

- **Discretionary Employer Contributions.** The employer determines what amount, if any, to contribute each year. Those contributions are allocated in a nondiscriminatory manner in accordance with the method selected by the employer in the SAR-SEP Plan Adoption Agreement. Examples of the two methods of allocating discretionary contributions — the Discretionary Contribution Formula and the Discretionary Integrated Contribution Formula — are included in the section of the booklet entitled Information for Employees.

Included Documents

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Barney SAR-SEP Plan

- **Salary Reduction Contributions (“Elective Deferrals”).** A SAR-SEP is similar to the popular 401(k) plan. Eligible employees may elect to defer a percentage of their compensation on a pretax basis.

Setting Up a SAR-SEP Plan

- Complete and sign the Morgan Stanley Smith Barney LLC SAR-SEP Plan Adoption Agreement. See “Completing the SAR-SEP Plan Adoption Agreement,” page [3].
- Give each eligible employee a copy of the Start-Up Materials described in “Providing Information to Employees,” page [2].
- Make sure each eligible employee has an IRA to accept SAR-SEP Plan contributions (referred to as a “SEP IRA”).

SAR-SEP Contributions—Limits and Adjustments to Compensation

- **Employees.** In [2011], the total SAR-SEP contributions (both discretionary employer contributions and salary reduction contributions) for an eligible employee are limited to the lesser of 25% of his/her taxable compensation or [\$49,000]. For tax years after [2011], this dollar limit may be increased to reflect cost-of-living adjustments, if any.
- **Self-Employed Individuals.** SAR-SEP contributions (both discretionary employer contributions and salary reduction contributions) for a self-employed individual are based on his/her earned income, reduced by his/her employer contributions under the SAR-SEP and any other Tax-Qualified Retirement Plans, and one-half of his/her self-employment taxes. The following formula may be used to determine the SAR-SEP contribution for a self-employed individual under the Discretionary Contribution Method:

$$\frac{\text{Earned Income (As Adjusted)} \times \text{Contribution \%}}{1 + \text{Contribution \%}}$$

In [2011], the total SEP contributions for a self-employed individual are limited to the lesser of 20% of his/her net earnings or [\$49,000]. For tax years after [2011], this dollar limit may be increased to reflect cost-of-living adjustments, if any. Moreover, the maximum deduction for SAR-SEP contributions may be further limited—see the deduction worksheet for self-employed individuals in IRS Publication 560.

If the only SAR-SEP contributions are salary reduction contributions and there are no other contributions, then the maximum amount that an individual could elect to defer under the SAR-SEP would be 25% of his/her taxable compensation (20% of net earnings for a self-employed individual), or the applicable deferral limit from the chart below.

For SAR-SEPs, catch-up contributions allow additional salary deferrals for individuals age 50 or older in the year the deferral is made. See the chart below for general and catch-up contribution amounts for [2011] and [2012].

Limits for Salary Reduction Contributions

Year	General Contribution Limit	Total Contribution Limit With Catch-Up Contributions
[2011]	[\$16,500]	[\$22,000]
[2012]		

There are other limitations on elective deferrals and those are explained in the SAR-SEP Plan Notice to Employees and Plan document.

You should work closely with your tax advisor to ensure that SAR-SEP contributions and elective deferral limits are properly calculated. Failure to properly calculate SAR-SEP contributions could subject the employer to a 10% excise tax on nondeductible contributions to a salary reduction SEP. The employer could be subject to an additional penalty if certain excess SAR-SEP contributions for “highly compensated employees” are not refunded on a timely basis.

Providing Information to Employees

- **Start-Up Materials**
 - Provide a copy of the SAR-SEP Plan Adoption Agreement, SAR-SEP Plan document and Information for Employees to each employee when he/she becomes eligible under the SAR-SEP Plan.
 - Also provide each eligible employee with a Salary Reduction Agreement and a copy of the Notice to Employees when he/she becomes eligible under the SAR-SEP Plan. You are responsible for telling your employees about the procedures for making salary reduction elections, such as any limits and deadlines for making an initial election or for changing (or terminating) an existing election. A sample Salary Reduction Agreement is included in this SAR-SEP Plan booklet.
 - **As of January 1, 1997, you may no longer adopt a new salary reduction SEP (SAR-SEP).** However, if you have a salary reduction SEP Plan that was adopted prior to January 1, 1997, you may adopt this SAR-SEP Plan as an amendment of that plan.
- **Annual Statements and Notices**
 - Provide each eligible employee with a statement showing the SAR-SEP Plan contribution made to his or her SEP IRA no later than January 31 following the year for which the contribution is made or, if later, 30 days after the contribution is made.
 - Provide each affected employee with a Notice of Disallowed Deferrals/Excess SAR-SEP contributions, as applicable, within 2½ months after the end of the Plan Year in which the related excess salary reduction contributions were made. A sample notice is included in this SAR-SEP Plan booklet.

- **Other Information.**

- Provide each eligible employee with a copy and explanation of any SAR-SEP Plan amendment within 30 days of the amendment's effective date.

Government Reporting—Form 5500

In general, an employer utilizing the Morgan Stanley Smith Barney SAR-SEP Plan need not file Form 5500, provided that (1) it provides the Start-Up Materials, as well as the Annual Statements and Notices and Other Information, to Employees as noted above, and (2) it (i) does not select, recommend or influence its employees to choose a particular SEP IRA or type of SEP IRA into which employer SAR-SEP Plan contributions will be made, or (ii) DOES select, recommend or influence its employees to choose a particular SEP IRA or type of SEP IRA, but it also provides the additional disclosure below and the IRAs are not subject to any provision that prohibits the withdrawal of funds by participants.

If the employer DOES select, recommend or substantially influence its employees to choose the IRAs into which employer contributions under the SAR-SEP Plan will be made, in order to avoid increased reporting and disclosure requirements the employer must also provide, at the time an employee becomes eligible to participate in the SAR-SEP Plan and in addition to the other disclosures noted above, a clear written explanation of the terms of those IRAs, such as the rates of return and any restrictions on a participant's ability to "rollover," transfer or withdraw funds from the IRAs (including restrictions that allow rollovers or withdrawals but reduce earnings of the IRAs or impose other penalties).

Completing the SAR-SEP Plan Adoption Agreement

A. Employer Information. Provide the requested information on your business. Your tax identification number is the number that you use to report federal income tax withholding on Form 941, 944 or 945. If you do not have a number for your business, you

must obtain one by filing Form SS-4. Notify your Morgan Stanley Smith Barney Financial Advisor, branch or other Morgan Stanley Smith Barney servicing area as soon as you obtain this number.

- B. Plan Information.** Provide the requested information on the Plan.
- C. Eligibility Requirements.** Age, compensation and length of service are key factors in deciding who will be eligible for your SAR-SEP Plan. The SAR-SEP Plan allows you to count service with a former employer. For example, a former sole proprietor that is now an incorporated employer may wish to count service during the period the employer was a sole proprietor. Enter the name of the former employer and the date from which service will be credited.
- D. Discretionary Employer Contributions.** Indicate the method to be used to allocate discretionary employer contributions.
- E. Salary Reduction Contributions ("Elective Deferrals").** Indicate the amount of cash bonuses and/or other cash compensation that may be deferred under the SAR-SEP.
Note: An Employer may also elect Discretionary Employer Contributions in Section D.
- F. Compensation.** Indicate the compensation definition to be used for the purposes of the plan (i.e., the definition to be used unless another definition is required to be used for a particular purpose under the plan or applicable law).
- G. Top-Heavy Minimum Contribution/Coordination with Other Plans.** Complete Section G.1 only if the employer (or a related employer) maintains another plan, or the top-heavy minimum contribution will be made to another plan.
- H. Execution of Adoption Agreement.** The Adoption Agreement must be signed and dated by persons authorized to adopt the SAR-SEP Plan on behalf of the employer. Your Morgan Stanley Smith Barney Financial Advisor, branch or other Morgan Stanley Smith Barney servicing area should complete the Morgan Stanley Smith Barney contact information.

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For Internal Use Only

Branch No.

Account No.

Financial Advisor No.

**Morgan Stanley
Smith Barney**

SAR-SEP Plan Adoption Agreement

This adoption agreement may only be completed if this is an amendment and restatement of a salary reduction SEP that was established prior to January 1, 1997.

A. Employer Information

EMPLOYER'S NAME

ADDRESS

CITY

STATE

ZIP CODE

EMPLOYER'S FEDERAL TAX ID NUMBER

EMPLOYER'S TELEPHONE NUMBER

Employer's Tax Year

☐ Calendar Year ☐ Year Ending _____
Month/Date

B. Plan Information

1. Adoption of SAR-SEP Plan.

The Employer amends its existing salary reduction Simplified Employee Pension originally effective on (MM/DD/YYYY): _____

2. Effective Date of this Adoption Agreement (MM/DD/YYYY): _____

3. Plan Year ☐ Calendar Year ☐ Employer's Tax Year

4. The individual designated by the Employer to provide additional information concerning the SAR-SEP Plan is:

NAME AND TITLE

ADDRESS

CITY

STATE

ZIP CODE

TELEPHONE

C. Eligibility Requirements for Participation in the SAR-SEP Plan

An Employee will be an Eligible Employee for any Plan Year if he or she (a) meets all of the eligibility requirements selected in 1, 2, and 3 below, and (b) is not excluded under 4 below.

1. Age Requirement

☐ No minimum Age requirement ☐ Has reached at least Age: _____ (not to exceed 21)

(If neither option is selected, you will be deemed to have elected "No minimum Age requirement.")

2. Service Requirement

☐ No minimum Service requirement ☐ Has performed Service for the Employer in at least ☐ 1, ☐ 2, or ☐ 3 of the immediately preceding 5 Plan Years.

(If neither option is selected, you will be deemed to have elected "No minimum Service requirement.")

Service with former employer(s) will be treated as Service for the Employer in accordance with the following *(Name of former employer and date from which Service will be recognized under the SAR-SEP Plan (or enter N/A))*:

NAME

DATE



SAR-SEP PLAN ADOPTION AGREEMENT
RETSARG N0212 (02/2012)

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3. Compensation Requirement

- ☐ No minimum Compensation requirement ☐ Has received Compensation for Plan Year of at least: \$ _____ (enter an amount not more than the 408(k)(2)(C) SEP Compensation requirement amount, as adjusted—[\$550] for [2011].) *(If this option is selected and no amount is entered, you will be deemed to have entered the maximum SEP Compensation requirement amount.)*
- (If neither option is selected, you will be deemed to have elected "No minimum Compensation requirement.")*

4. Exclusions

For purposes of determining which Employees are eligible to participate, the following Employees are excluded from consideration:

- ☐ Employees who for the entire Plan Year are covered by a collective bargaining agreement ("CBA") between employee representatives and the Employer, if retirement benefits were the subject of good faith bargaining and the CBA does not expressly provide for participation in the Plan. Participation by Employees covered by a CBA is governed by the terms of the CBA.
- ☐ Employees who for the entire Plan Year are nonresident aliens with no U.S. source income from the Employer.

D. Discretionary Employer Contributions

The Employer may make contributions to the SAR-SEP Plan, and if they are made for any given Plan Year, they will be made in accordance with the following formula (see Plan Section 4.02 for a description of each type of contribution formula)(select one formula):

- ☐ Discretionary Contribution Formula (Section 4.02(a)) **OR**
- ☐ Discretionary Integrated Contribution Formula (Section 4.02(b))
- The Integration Rate will be: ☐ the Maximum Disparity Rate ☐ _____% *(not to exceed the Maximum Disparity Rate)*
- The Integration Level will be: ☐ the Social Security taxable wage base ☐ _____% of the Social Security taxable wage base
taxable wage base *(not to exceed 100%)*

E. Elective Deferrals

1. Elective Deferrals will be permitted and an Eligible Employee's Elective Deferrals for any Plan Year cannot exceed:
- ☐ _____% or \$ _____ of cash Compensation (other than cash bonuses)
- ☐ _____% or \$ _____ of cash bonuses
2. For purposes of Elective Deferral contributions, the definition of a Highly Compensated Employee in Plan Section 2.16:
- ☐ **will** require the Employee to be in the Top-Paid Group to be considered a Highly Compensated Employee. *(If neither option is selected, you will be deemed to have elected this option.)*
- ☐ **will not** require the Employee to be in the Top-Paid Group to be considered a Highly Compensated Employee.

F. Compensation

For purposes of this Plan, Compensation shall mean *(If no election is made, the choice marked "Default" will apply):*

- ☐ Form W-2 Wages [Default] ☐ Section 3401(a) Wages ☐ Section 415 Safe-Harbor Compensation

Please indicate if Compensation shall include the following types of post-severance compensation:

- ☐ No post-severance compensation shall be included, except as required by law [Default]
- ☐ Unused accrued leave that the Employee could have used if employment continued
- ☐ Taxable payments from a nonqualified unfunded deferred compensation plan

Pre-Tax Deferrals will not be included in Compensation for purposes of *(Check only those that apply):*

- ☐ allocating discretionary Employer Contributions ☐ determining Deferral Percentage Limitations

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G. Top-Heavy Minimum Contribution/Coordination With Other Plans (Optional)

1. The minimum top-heavy contribution described in Section 6.01 will be made to the following plan(s):

2. Any adjustments to contributions in accordance with Section 6.01 (i.e., pursuant to Code Section 415) will be made to the plans sponsored by the Employer in the following order:

☐ Profit Sharing Plan, Money Purchase Pension Plan, Target Benefit Plan, 401(k) Plan, Simplified Employee Pension Plan

☐ Other: _____

H. Execution of Adoption Agreement

The Employer certifies that this is an amendment and restatement of a salary reduction SEP that was established prior to January 1, 1997 and hereby adopts the Morgan Stanley Smith Barney LLC SAR-SEP Plan, subject to the selections made in this Adoption Agreement, and subject further to receipt of an executed copy of this Adoption Agreement by your Morgan Stanley Smith Barney Financial Advisor, branch or other Morgan Stanley Smith Barney servicing area

on this _____ day of _____, 20_____.

EMPLOYER (NAME OF EMPLOYER)

BY: (SIGNATURE OF AUTHORIZED OFFICER, MEMBER, PARTNER OR SOLE PROPRIETOR) AND TITLE

Morgan Stanley Smith Barney LLC

(800) 844-6119

NAME OF PROTOTYPE SPONSOR

PHONE

2000 Westchester Avenue

ADDRESS

Purchase

NY

10577

CITY

STATE

ZIP

NOTE: If the Employer adopts this prototype SAR-SEP Plan in accordance with the form approved by the Internal Revenue Service and observes the provisions thereof, the affected taxpayers may rely on Morgan Stanley Smith Barney LLC's opinion letter, provided that (a) SAR-SEP Plan contributions are made to an Internal Revenue Service-approved prototype or model traditional IRA, and (2) contributions under the SAR-SEP Plan do not (in combination with another SEP or defined contribution plan of the Employer) fail to satisfy the requirements of Code Section 415.

If the Employer maintains any combination of defined contribution plans, the Employer should apply to the appropriate district office of the Internal Revenue Service for a determination as to whether that plan, or those plans, in combination with this SAR-SEP Plan, satisfy the requirements of Code Section 415.

If Elective Deferrals are made under a SAR-SEP of an Employer who has any Leased Employees, that Employer's SAR-SEP Plan will be treated as an individually designed salary reduction SEP. An Employer whose salary reduction SEP is treated as an individually designed plan should request an individual ruling from the IRS on its salary reduction SEP.

For more information regarding the SAR-SEP Plan, contact your Morgan Stanley Smith Barney Financial Advisor, branch or other Morgan Stanley Smith Barney servicing area.

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SAR-SEP Plan Information for Employees

This information explains what the SAR-SEP Plan is, how contributions are made to the SAR-SEP Plan and how to treat your Employer's contributions for tax purposes. Please read this information carefully.

For more specific information, also see the SAR-SEP Plan Adoption Agreement and SAR-SEP Plan document that are provided to you by your Employer. In the event of any conflict between this information and the terms of those SAR-SEP Plan documents, the terms of those documents will control.

Introduction

The SAR-SEP Plan, which is a salary reduction Simplified Employee Pension Plan, is a plan designed to give your Employer a simplified way to provide contributions toward your retirement income. Under the SAR-SEP Plan, your Employer makes contributions directly to a Morgan Stanley Smith Barney or other Individual Retirement Account/Annuity ("IRA") set up by or for you. There is no need for you to file any additional forms with the IRS because you participate in the SAR-SEP Plan.

The IRA to which your Employer contributes is referred to as a "SEP IRA." You own and control your SEP IRA, and you, not your Employer, are responsible for all investment decisions regarding your SEP IRA. In general, SAR-SEP Plan contributions become your property as soon as they are deposited in your SEP IRA (but special rules may apply to contributions in excess of IRS limits).

Participation in the SAR-SEP Plan

Each Employee who satisfies each of the following requirements before the end of the plan year is eligible to participate in the SAR-SEP Plan and to receive a share of any Employer contributions made under the SAR-SEP Plan for that year even if he or she terminates employment before year-end:

- the Employee is at least 21 years old,
- the Employee has worked for the Employer (or a predecessor (as specified in the SAR-SEP Plan's Adoption Agreement) or related employer) for any period of time in at least three of the preceding five plan years, and
- the Employee has earned at least [\$550] (in tax year [2011]) of compensation from the Employer during the plan year. This dollar limit may be adjusted annually for cost-of-living increases.

Certain nonresident aliens may not be eligible to participate in the SAR-SEP Plan. Further, participation by Employees covered by a collective bargaining agreement (and the extent of that participation) will be determined by collective bargaining.

Your Employer's SAR-SEP Plan may have less restrictive eligibility requirements than those described above. Your copy of the Adoption Agreement signed by your Employer will indicate whether your Employer's SAR-SEP Plan has less restrictive eligibility requirements.

Note that an Employer may elect to make the SAR-SEP Plan "plan year" the same as the calendar year or the Employer's taxable year.

The determination of who participates (and other SAR-SEP Plan determinations) will be made on the basis of the plan year.

For example, suppose the SAR-SEP Plan's plan year is the calendar year. Suppose an Employee worked for the Employer in [2006], [2007], [2008] and [2009] but not in [2010]. Also, suppose the Employee reached age 21 in [2010] and then began working again for the Employer in [2011]. If the Employee earns more than [\$550] in [2011], the Employee must participate in the SAR-SEP Plan in [2011] since the age, service and compensation requirements above will have been met.

All Eligible Employees must participate in the SAR-SEP Plan, and your Employer may require that you become a participant in the SAR-SEP Plan as a condition of employment. Therefore, an Employer adopting the SAR-SEP Plan must require that all Eligible Employees open a SEP IRA to accept SAR-SEP Plan contributions. If an Eligible Employee refuses to do so, the Employer is required to open a SEP IRA with Morgan Stanley Smith Barney or another financial institution for the Employee in order to preserve the tax advantages of the SAR-SEP Plan for all Eligible Employees.

Discretionary Employer Contributions

Your copy of the Adoption Agreement signed by your Employer will indicate under what conditions your Employer will make discretionary Employer contributions under the SAR-SEP Plan, and your Employer will determine whether or not to make a contribution to the SAR-SEP Plan for any given plan year. If a contribution is made under the SAR-SEP Plan, it must be allocated to all Eligible Employees according to the SAR-SEP Plan document. Contributions to a salary reduction SEP may not discriminate in favor of officers, shareholders/owners or highly compensated employees. Your allocation is fully vested and may not be forfeited for any reason (but special rules may apply to contributions in excess of IRS limits).

Your Employer will determine the amount of contributions to be made to your SEP IRA each plan year based on your compensation not in excess of the limit provided in the Internal Revenue Code. (The compensation limit is [\$245,000] for [2011].) However, the contribution for any plan year is limited to the lesser of [\$49,000] for [2011] or 25% of your taxable compensation (20% of your net earnings for self-employed individuals). These dollar limits may be adjusted annually for cost-of-living increases.

The SAR-SEP Plan does not require an Employer to maintain a particular level of contribution. It is possible that for a given year no Employer contributions will be made on any Employee's behalf.

The amount your Employer contributes within the limitations described above will not be included in your gross income. Your Employer will have until its tax filing due date (including extensions) to make deductible SAR-SEP Plan contributions.

How Discretionary Employer Contributions Are Allocated

Your Employer selects one of two different formulas of allocation in the Adoption Agreement — the Discretionary Contribution Formula or the Discretionary Integrated Contribution Formula.

The Discretionary Contribution Formula

Under this formula, the discretionary Employer contribution will be allocated to the SEP IRAs of all Eligible Employees so that each Eligible Employee receives a uniform percentage of total compensation not in excess of the limit provided in the Internal Revenue Code. See Section 4.02(a) of the SAR-SEP Plan document for a detailed description of this formula.

Example: Assume that an incorporated Employer elects to make a discretionary Employer contribution for a plan year equal to 10% of that year's taxable compensation earned by all Eligible Employees. The contribution would be allocated as follows:

Eligible Employee	Compensation	Percent Contribution	SAR-SEP Plan Contribution
A	\$25,000	10%	\$2,500
B	\$50,000	10%	\$5,000
C	\$100,000	10%	\$10,000
D	\$200,000	10%	\$20,000

Total SAR-SEP Plan Employer Contribution = \$37,500

The Discretionary Integrated Contribution Formula

This formula takes into account the fact that certain amounts have already been paid by your Employer as Social Security taxes on your behalf. As a result, those Eligible Employees whose earnings exceed the Social Security taxable wage base for the year ([2011]) will generally receive a larger allocation of discretionary Employer contributions than those Eligible Employees earning less than the taxable wage base. Although Employer contributions under the SAR-SEP Plan must bear a uniform relationship to Employees' compensation, your Employer is entitled to offset or reduce its contribution by certain amounts already paid by your Employer on your behalf as Social Security taxes. This reduction may eliminate or substantially reduce the allocation you would otherwise receive. This is called "integration" with Social Security, and is permissible only if statutory requirements are satisfied.

Under the Integrated Contribution Formula, the discretionary Employer contributions are allocated to the SEP IRAs of Eligible Employees under a multiple-step formula. See Section 4.02(b) of the SAR-SEP Plan document for a detailed description of this formula.

Example: Assume that an incorporated Employer elects to make a discretionary Employer contribution equaling \$37,500 (10% of all Eligible Employees' taxable compensation) for the [2011] plan year and to allocate the contribution using the Integrated Contribution Formula. Using the [2011] Social Security taxable wage base of [\$106,800], the contributions would be allocated as follows:

SAR-SEP Plan Contribution						
Eligible Employee	Compensation	Step 1	Step 2	Step 3	Step 4	Total
A	\$25,000	\$750 +	\$0 +	\$675 +	\$721 =	\$2,146
B	\$50,000	\$1,500 +	\$0 +	\$1,350 +	\$1,442 =	\$4,292
C	\$100,000	\$3,000 +	\$0 +	\$2,700 +	\$2,883 =	\$8,583
D	\$200,000	\$6,000 +	\$2,796 +	\$7,916 +	\$5,767 =	\$22,479
	\$375,000	\$11,250 +	\$2,796 +	\$12,641 +	\$10,813 =	\$37,500

Note that the Social Security taxable wage base generally increases each year and any such increase will affect your allocation.

Employee Salary Reduction Contributions—Elective Deferrals

You may elect to reduce your cash Compensation (including bonuses, if elected in the Adoption Agreement) and have the amount of that reduction deposited by your Employer into your SEP IRA. These salary reduction contributions are also referred to as Elective Deferrals. You must complete a Salary Reduction Agreement to make Elective Deferrals. The Salary Reduction Agreement sets forth certain rules that apply to your Elective Deferral elections (for example, when elections may be made or changed). See the attached Notice to Employees for more details on these contributions.

Limits

The total contributions to your SEP IRA attributable to discretionary Employer contributions and your Elective Deferrals may not exceed the lesser of [\$49,000] in [2011] (as adjusted for future years) or 25% of your taxable compensation (20% of your net earnings for self-employed individuals) (the "Contribution Limit"). The maximum amount of taxable compensation that can be considered for plan purposes may be adjusted for inflation in certain years. For [2011], this figure is [\$245,000]. Any contributions in excess of the Contribution Limit should be treated by you on your individual tax returns as your individual contributions to a traditional IRA. Please remember that all individual contributions, to all IRAs that you maintain, must be considered when assessing whether you have complied with the limits on such contributions. See the attached Notice to Employees for a description of other limits that may apply to your Elective Deferrals. Any excess contributions (including the earnings) by you or by your Employer beyond the Contribution Limit (or your regular, traditional IRA limit) may be withdrawn, without penalty, on or prior to the due date (plus extensions) for filing your tax return. Excess contributions left in your SEP IRA after that time may have adverse tax consequences (including the application of a 6% penalty tax for each year the excess contribution remains in your account) and withdrawals of those contributions may be taxed as premature withdrawals.

Coverage Under Other Plans

If you are covered under the SAR-SEP Plan and one or more qualified retirement plans maintained by your Employer (or by an unrelated employer), special rules under Code Section 415 may limit the amount which may be contributed on your behalf for that year.

If you are employed by more than one unrelated employer during the year, you may be covered under more than one SEP, but contributions in excess of the Contribution Limit described above (which is applied separately with respect to each unrelated employer) are includable in your gross income, and treated as excess contributions (see above for adverse tax consequences for excess contributions). However, for purposes of determining whether you have exceeded the annual limit on salary reduction contributions, your Elective Deferrals under this SAR-SEP Plan are combined with similar elective deferrals under other plans maintained by related or unrelated employers. See Section VI of the Notice to Employees.

Individual IRA Contributions

You may make a regular individual IRA (non-Roth) contribution to your SEP IRA — generally up to [\$5,000] or 100% of your compensation, if less. However, if Elective Deferrals or discretionary Employer contributions are made to your SEP IRA or another qualified retirement plan, you will be considered an “active participant” in a retirement plan. As such, the amount of your IRA contribution that can be deducted will be limited if your income exceeds a specified level. You should refer to the terms of your SEP IRA agreement and the SEP IRA disclosure material for additional information. Individuals age 50 or older may contribute additional “catch-up contributions” (up to [\$1,000] in [2011]).

Withdrawals and Rollovers

You may withdraw your Elective Deferrals or your discretionary Employer contributions from your SEP IRA at any time. However, see the Notice to Employees for special withdrawal rules that apply to Elective Deferrals. Any amount withdrawn is includable in your income (unless it is properly rolled over as described below). Furthermore, you may be subject to an additional 10% penalty tax on the amounts withdrawn, if such withdrawals are made before you reach age 59½ and are not made on account of one of the following exceptions: (a) distributions made to the beneficiary on or after the account holder’s death, (b) distributions due to the individual’s being disabled, (c) distributions that are part of a series of substantially equal periodic payments that are made at least annually for the life of the individual or the joint lives of the individual and his or her beneficiary, (d) distributions used to pay for medical expenses which exceed 7.5% of your adjusted gross income (“AGI”), (e) distributions used to pay for health insurance if you have collected unemployment compensation benefits for at least 12 weeks, (f) distributions used for the purchase of your first home, not to exceed \$10,000 in your lifetime, (g) distributions used to pay college tuition and expenses for you or a family member, (h) distributions used to satisfy an IRS levy of the SAR-SEP Plan, or (i) distributions taken as qualified reservist distributions.

It is possible for you to withdraw funds from your SEP IRA tax-free if you reinvest them within 60 days in your SEP IRA or another eligible IRA. This is called a “rollover” and may not be done more frequently than once per IRA in any 12-month period without

penalty. If you do not satisfy these rollover rules, the withdrawal will be a taxable distribution from your SEP IRA.

However, there is no 12-month waiting period if you arrange to have funds directly transferred between IRA custodians or trustees, so that you never take possession of the withdrawal. Because there is no distribution to you, the transfer is generally tax-free.

SAR-SEP Plan contributions may be deposited in any SEP IRA which will accept them; however, this SAR-SEP Plan and the SEP IRA into which your SAR-SEP Plan contributions are deposited must be pre-approved as to form (e.g., use of model IRS document or submitted for IRS approval), must satisfy all statutory and regulatory requirements and must also be operated and maintained in accordance with their respective terms and current statutes and regulations.

Your SAR-SEP Plan contributions will initially be deposited in a Morgan Stanley Smith Barney Traditional IRA or another IRA selected by you. The Morgan Stanley Smith Barney Traditional IRA has been approved by the IRS as a prototype IRA. If you select another IRA or exercise your right to transfer to another IRA, that IRA should be either an IRS-approved model or a prototype IRA with an official opinion letter from the IRS. Note that you cannot use a SIMPLE IRA or a Roth IRA under a salary reduction SEP. You should also make sure that the terms of the other IRA authorize salary reduction SEP contributions up to the Contribution Limit described above.

Income Tax Treatment of Your SAR-SEP Plan Contributions

Employer and employee contributions to your SEP IRA are excluded from your taxable income, unless there are contributions in excess of the applicable contribution limits (as discussed above). Employer contributions within these limits will not be included on your W-2. (Special rules apply to elective deferrals, see the Notice to Employees.)

Although there is no direct prohibition against making the SAR-SEP Plan contributions to your spouse’s IRA, it may result in adverse tax consequences. Please remember that a transaction of this sort could result in complex tax consequences requiring professional advice.

Income Tax Treatment of Your SEP IRA Distributions

SEP IRA distributions are includable in income (unless rolled over) and are not eligible for capital gains treatment. As mentioned above, certain withdrawals and distributions made prior to age 59½ are subject to an additional 10% penalty tax.

IRA Disclosure

Morgan Stanley Smith Barney or any other institution where you establish your SEP IRA must also provide you with an IRA disclosure statement containing the following items of information in plain, non-technical language:

- (1) the statutory requirements which relate to your IRA;
- (2) the tax consequences which follow the exercise of various options and what those options are;
- (3) participation eligibility rules, and rules on the deductibility and non-deductibility of retirement savings;
- (4) the circumstances and procedures under which you may revoke your IRA, including the name, address and telephone

number of the person designated to receive notice of revocation (this explanation must be prominently displayed at the beginning of the disclosure statement);

- (5) explanations of when penalties may be assessed against you because of specified prohibited or penalized activities concerning your IRA; and
- (6) financial disclosure information which (a) projects the value of your IRA under various contribution and retirement schedules as well as growth rates or describes the method of computing and allocating annual earnings and charges which may be assessed; (b) describes whether, and for what period, the growth projections for the IRA are guaranteed, or a statement of the earnings rate and terms on which the projections are based; and (c) states the sales commission, if any, to be charged in each year expressed as a percentage of \$1,000.

In addition to this disclosure statement, you must be provided with a financial statement each year. It may be necessary to retain and refer to statements for more than one year in order to evaluate the investment performance of the IRA.

See Publication 590, *Individual Retirement Arrangements*, available at any IRS office or online at www.irs.gov for more information on IRAs.

Additional Information from Your Employer

In addition to this Information for Employees notice, your Employer must also provide you with a copy of the signed SAR-SEP Plan Adoption Agreement, the SAR-SEP Plan document and, if applicable, the Notice to Employees describing Elective Deferrals. Your

copy of the Adoption Agreement indicates the name and title of the individual(s) designated by your Employer to provide additional information to Employees concerning the SAR-SEP Plan.

Each year your Employer will give you a statement showing any contributions it made to your SEP IRA. This statement must be given to you by the later of (a) January 31 of the year following the year for which a contribution is made or (b) 30 days after the contribution has been made. Additionally, your Employer will notify you if your Elective Deferrals must be withdrawn to satisfy certain limits.

Your Employer is also required to give you a copy of any amendment made to the SAR-SEP Plan Adoption Agreement or SAR-SEP Plan document and a clear written explanation of its effect. These materials must be furnished to you within 30 days of the effective date of the amendment.

Also, please note that:

- IRAs other than the IRA(s) into which contributions will be made under the SAR-SEP Plan may provide different rates of return and may have different terms concerning, among other things, transfers and withdrawals of funds from the IRAs.
- In the event you are entitled to make a contribution or rollover to an IRA, such contribution or rollover can be made to an IRA other than the one into which contributions under the SAR-SEP Plan are to be made.
- Depending on the terms of the IRA into which contributions are made, you may be able to make rollovers or transfers of funds from that IRA to another IRA.

SAR-SEP Plan Notice to Employees— Additional Information for Employees Regarding Elective Deferrals

The following Notice to Employees describes the special rules that apply to Elective Deferrals under the Salary Reduction SEP established by your employer. Your employer is required to provide you with a copy of this notice. Please note that the “SEP agreement” referenced in the notice means the SAR-SEP Plan Adoption Agreement executed by your employer and the SAR-SEP Plan document. If you have a Morgan Stanley Smith Barney IRA, Morgan Stanley Smith Barney can give you information regarding income credited to your IRA so that your tax advisor can calculate the income allocable to excess amounts.

Notice to Employees

The following information explains what a simplified employee pension plan (“SEP”) is, how contributions are made and how to treat these contributions for tax purposes. For more specific information, refer to the SEP agreement itself.

I. SIMPLIFIED EMPLOYEE PENSION—DEFINED. A SEP is a retirement income arrangement. In this “elective” SEP, you may choose to defer compensation to your own Individual Retirement Account or Annuity (“IRA”). You may base these “Elective Deferrals” either on a salary reduction arrangement or on bonuses that, at your election, may be contributed to an IRA or received in cash. This type of elective SEP is available only to an employer with 25 or fewer eligible employees.

Your employer must provide you with a copy of the SEP agreement containing eligibility requirements and a description of the basis upon which contributions may be made.

All amounts contributed to your IRA belong to you, even after you quit working for your employer.

II. ELECTIVE DEFERRALS — MAY BE DISALLOWED. You are not required to make Elective Deferrals to this SEP IRA. However, if more than half of your employer’s eligible employees choose not to make Elective Deferrals in a particular year, then no employee may participate in your employer’s elective SEP for that year. If you make Elective Deferrals during a year in which this happens, then your deferrals for that year will be “disallowed,” and the deferrals will be considered ordinary IRA contributions (which may be excess IRA contributions) rather than SEP IRA contributions.

“Disallowed deferrals” and allocable income may be withdrawn, without penalty, until April 15 following the calendar year in which you are notified of the “disallowed deferrals.” Amounts left in the IRA after that date will be subject to the same penalties discussed in Section VII below applicable to excess SEP contributions.

III. ELECTIVE DEFERRALS — ANNUAL LIMITATION. The maximum amount that you may defer to this SEP for any calendar year is limited to the lesser of 25% of compensation (determined without including the SEP IRA contribution) (20% of net earnings for self-employed individuals) or a dollar limit under Section 402(g) of the Internal Revenue Code that originally was \$15,000 in 2006 (and now is subject to cost-of-living increases).

The 25% limit may be reduced if your employer also maintains a SEP to which non-elective contributions are made for a plan year, or any qualified defined contribution plan to which contributions

are made for such plan year. In that case, total contributions on your behalf to all such SEPs may not exceed the lesser of [\$49,000] for [2011] (indexed annually) or 25% of your taxable compensation (20% of net earnings for self-employed individuals). (Also, the total annual additions made to such SEPs and qualified defined contribution plans cannot exceed the lesser of [\$49,000] for [2011] (indexed annually) or 100% of your taxable compensation.) If these limits are exceeded, the amount you may elect to contribute to this SEP for the year will be correspondingly reduced.

The dollar limit under Section 402(g) of the Code is an overall limit on the maximum amount that you may defer in each calendar year to all SEPs, SIMPLE IRAs, 403(b) plans and cash or deferred arrangements under Section 401(k) of the Code, regardless of how many employers you may have worked for during the year. Individuals who are 50 or older before the end of the calendar year can defer an additional amount of compensation (“catch-up contributions”) during the year, without regard to other applicable limits. This amount is [\$5,500] for [2011], which is subject to adjustment for future years.

The Section 402(g) limit is indexed according to the cost of living.

If you are a highly compensated employee, there may be a further limit on the amount that you may contribute to a SEP IRA for a particular year. This limit is calculated by your employer and is known as the “deferral percentage limitation.” This deferral percentage limitation is based on a mathematical formula that limits the percentage of pay that highly compensated employees may elect to defer to a SEP IRA. As discussed below, your employer will notify each highly compensated employee who has exceeded the deferral percentage limitation.

IV. ELECTIVE DEFERRALS — TAX TREATMENT. The amount that you may elect to contribute to your SEP IRA is excludible from gross income, subject to the limitations discussed above, and is not includable as taxable wages on Form W-2. However, these amounts are subject to FICA and FUTA taxes.

V. ADDITIONAL TOP-HEAVY CONTRIBUTIONS. If you are not a “key employee,” your employer must make an additional contribution to your SEP IRA for a year in which the SEP is considered “top-heavy.” (Your employer will be able to tell you whether you are a key employee.) This additional contribution will not exceed 3% of your compensation. It may be less if your employer has already made a contribution to your account, and for certain other reasons.

VI. ELECTIVE DEFERRALS — EXCESS AMOUNT CONTRIBUTED. There are three different situations in which impermissible excess amounts arise under the SEP IRA.

The first way is when “excess Elective Deferrals” (i.e., amounts in excess of the Section 402(g) limit) are made. You are responsible for calculating whether you have exceeded the Section 402(g) limit in the calendar year. For [2011], the Section 402(g) limit for contributions made to an elective SEP is [\$16,500.]

The second way is when “excess SEP contributions” (i.e., amounts in excess of the deferral percentage limitation referred to above) are made by highly compensated employees. The employer is responsible for determining whether such an employee has made excess contributions.

The third way is when more than half of an employer's eligible employees choose not to make Elective Deferrals for a plan year. In that case, any Elective Deferrals made by any employees for that year are considered "disallowed deferrals," as discussed above. Your employer is also responsible for determining whether deferrals must be disallowed on this basis.

Excess Elective Deferrals are calculated on the basis of the calendar year. Excess SEP contributions and disallowed deferrals, however, are calculated on the basis of the SEP plan year, which may or may not be a calendar year.

VII. EXCESS ELECTIVE DEFERRALS—HOW TO AVOID ADVERSE TAX CONSEQUENCES. Excess Elective Deferrals are includable in your gross income in the calendar year of deferral. Income on the excess Elective Deferrals is includable in the year of withdrawal from the IRA. You should withdraw excess Elective Deferrals under this SEP, and any allocable income, from your SEP IRA by April 15 following the year to which the deferrals relate. These amounts may not be transferred or rolled over tax-free to another SEP IRA.

If you fail to withdraw excess Elective Deferrals, and any allocable income, by April 15, the excess Elective Deferrals will be subject to the IRA contribution limitations of Sections 219 and 408 of the Code and thus may be considered an excess contribution to your IRA. Such excess deferrals may be subject to a 6% excise tax for each year they remain in the SEP IRA.

Income on excess Elective Deferrals is includable in your gross income in the year you withdraw it from your IRA and must be withdrawn by April 15 following the calendar year to which the deferrals relate. Income withdrawn from the IRA after that date may be subject to a 10% tax on early distributions if you are not 59½.

If you have both excess Elective Deferrals and excess SEP contributions (as described below), the amount of excess Elective Deferrals that you withdraw by April 15 will reduce any excess SEP contributions that must be withdrawn for the corresponding plan year.

VIII. EXCESS SEP CONTRIBUTIONS—HOW TO AVOID ADVERSE TAX CONSEQUENCES. If you are a "highly compensated employee," your employer is responsible for notifying you if you have made any excess SEP contributions for a particular plan year. This notification should tell you the amount of the excess SEP contributions, the calendar year in which you must include these contributions in income, and that the contributions may be subject to penalties if you do not withdraw them from your IRA within the applicable time period.

Your employer should notify you of the excess SEP contributions within 2½ months of the end of the plan year. Generally you must include the excess SEP contributions in income for the calendar year in which the original deferrals were made. This may require you to file an amended individual income tax return. However, an excess SEP contribution of less than \$100 (not including earnings) is includable in the calendar year of notification. Income on these excess contributions is includable in your gross income when you withdraw it from your IRA.

You are responsible for withdrawing these excess SEP contributions (and earnings) from your IRA. You may withdraw these amounts, without penalty, until April 15 following the calendar

year in which you were notified by your employer of the excess SEP contributions.

If you fail to withdraw the excess SEP contributions by April 15 following the calendar year of notification, the excess SEP contributions will be subject to the IRA contribution limitations of Sections 219 and 408 of the Code and thus may be considered an excess contribution to your IRA. Thus, such excess SEP contributions may be subject to a 6% excise tax for each year they remain in your IRA.

If you do not withdraw the income on these excess SEP contributions by April 15 following the calendar year of notification by your employer, the income may be subject to a 10% tax on early distributions if you are not 59½ when you withdraw it.

IX. INCOME ALLOCABLE TO EXCESS AMOUNTS. The rules for determining and allocating income to excess Elective Deferrals, excess SEP contributions and disallowed deferrals, are the same as those governing regular IRA contributions. The trustee or custodian of your SEP IRA will inform you of the income allocable to excess amounts.

X. AVAILABILITY OF IRA CONTRIBUTION DEDUCTION TO SEP PARTICIPANTS. In addition to any SEP amounts, you may contribute the lesser of [\$5,000] (for [2011], as indexed for future years) or 100% of compensation to an IRA. Individuals age 50 or older may contribute additional "catch-up contributions" of [\$1,000] (for [2011], as indexed for future years). However, the amount that you may deduct is subject to various limitations. See IRS Publication 590, *Individual Retirement Arrangements*, for more specific information.

XI. SEP IRA AMOUNTS—ROLLOVER OR TRANSFER TO ANOTHER IRA. You may not withdraw or transfer from your SEP IRA any SEP contributions (or income on these contributions) attributable to Elective Deferrals made during the plan year until 2½ months after the end of the plan year or, if sooner, when your employer notifies you that the deferral percentage limitation test (described above) has been completed for that year. In general, any transfer or distribution made before this time will be includable in your gross income and may also be subject to a 10% penalty tax for early withdrawal. You may, however, remove excess Elective Deferrals from your SEP IRA before this time, but you may not roll over or transfer these amounts to another IRA.

After the restriction described in the preceding paragraph no longer applies, and with respect to contributions for a previous plan year, you may withdraw, or receive, funds from your SEP IRA, and no more than 60 days later, place such funds in another IRA or SEP IRA. This is called "rollover" and may not be done without penalty more frequently (per IRA) than at one-year intervals. However, there are no restrictions on the number of times that you may make "transfers" if you arrange to have such funds transferred between the trustees so that you never have possession of the funds.

You may *not*, however, roll over or transfer excess Elective Deferrals, excess SEP contributions or disallowed deferrals from your SEP IRA to another IRA. These excess amounts may be reduced only by a distribution to you.

XII. FILING REQUIREMENTS. You do not need to file any additional forms with the IRS because of participation in the SEP.

XIII. EMPLOYER TO PROVIDE INFORMATION ON SEP IRAS AND THE SEP AGREEMENT. Your employer must provide you with a copy of the executed SEP agreement, this Notice to Employees, the notice entitled “Information for Employees,” the form you should use to defer amounts to the SEP, a notice of excess SEP contributions or disallowed deferrals (if applicable) and a statement for each taxable year showing any contribution to your SEP IRA. Your employer must also notify you, if you are a highly compensated employee, when the deferral percentage limitation test has been completed for a plan year.

XIV. FINANCIAL INSTITUTION WHERE IRA IS ESTABLISHED TO PROVIDE INFORMATION. The financial institution must provide you with a disclosure statement that contains the following items of information in plain nontechnical language:

- A. The statutory requirements that relate to the IRA;
- B. The tax consequences that follow the exercise of various options and what those options are;
- C. Participation eligibility rules, and rules on the deductibility and nondeductibility of retirement savings;
- D. The circumstances and procedures under which you may revoke the IRA, including the name, address and telephone number of the person designated to receive notice of revocation (this explanation must be prominently displayed at the beginning of the disclosure statement);

E. Explanations of when penalties may be assessed against you because of specified prohibited or penalized activities concerning the IRA; and

F. Financial disclosure information which:

1. Either projects value growth rates of the IRA under various contribution and retirement schedules, or describes the method of computing and allocating annual earnings and charges which may be assessed;
2. Describes whether, and for what period, the growth projections for the plan are guaranteed, or a statement of earnings rate and terms on which these projections are based; and
3. States the sale commission to be charged in each year expressed as a percentage of \$1,000.

See IRS Publication 590, *Individual Retirement Arrangements*, which is available at most IRS offices, for a more complete explanation of the disclosure requirements.

In addition to the disclosure statement, the financial institution is required to provide you with a financial statement each year. It may be necessary to retain and refer to statements for more than one year in order to evaluate the investment performance of your IRA and in order that you will know how to report IRA distributions for tax purposes.

SAR-SEP Plan Sample Forms

Morgan Stanley Smith Barney LLC (“MSSB”) has provided the following sample forms for the exclusive use by and convenience of Employers adopting the SAR-SEP Plan. You are not obligated to use these forms and MSSB does not assume responsibility for their appropriateness or use.

Salary Reduction Agreement (Only applies to plans adopted prior to January 1, 1997.)

The Employer should enter the following information on the sample Salary Reduction Agreement:

- Enter the maximum amount of regular cash compensation and cash bonuses that may be contributed (from Section E of the Adoption Agreement) in the “Salary Reduction Election” section. If no deferrals from cash bonuses are permitted, then this option should be removed.

The Employer should enter the following information in the “Important Information About Your Elective Deferrals” section.

- Enter the dates when an Eligible Employee may start, change and resume contributions and the deadlines for returning the form in the blanks in the “Contribution Elections” section.

Provide a copy of the Salary Reduction Agreement (**as modified to include the information described above**) to each Eligible Employee when he/she first becomes eligible to participate in the SAR-SEP Plan. Each Eligible Employee should complete a Salary Reduction Agreement to initiate or change his/her Elective Deferrals.

Note: Elective Deferrals may only be deducted from compensation that otherwise would be paid after the Eligible Employee has made a deferral election.

Notice of Disallowed Deferrals/Excess SAR-SEP Contributions

Provide to each affected Eligible Employee within 2½ months after the end of the Plan Year in which Excess SAR-SEP Contributions or Disallowed Deferrals were made. For more information on reporting excess salary reduction contributions, see the SAR-SEP Plan document and consult your tax advisor regarding various IRS Notices and procedures that are issued in relation to excess contributions and disallowed deferrals.

For Internal Use Only

Branch No.

Account No.

Financial Advisor No.

**Morgan Stanley
Smith Barney**

SAR-SEP Plan Salary Reduction Agreement

Note: Only Plans adopted prior to January 1, 1997 may permit salary reduction contributions.

EMPLOYER'S NAME

Employee's Name

EMPLOYEE'S NAME

ADDRESS

CITY

STATE

ZIP CODE

SOCIAL SECURITY NUMBER

Salary Reduction Election

Reduce my cash Compensation and contribute to the SAR-SEP Plan: *(Enter "zero" or "0" if you want to terminate your Salary Reduction Agreement.)*

\$ _____	OR	_____ %	of my regular cash Compensation	\$ _____	OR	_____ %
			each pay period, not to exceed			
			of my cash bonus Compensation			
\$ _____	OR	_____ %	not to exceed	\$ _____	OR	_____ %

IRA Information

My Elective Deferrals and any other Employer contributions under the SAR-SEP Plan should be deposited to the following Individual Retirement Account/Annuity for my benefit:

☐ SEP IRA: Morgan Stanley Smith Barney LLC, Custodian

ACCOUNT NUMBER

☐ Alternate SEP IRA Custodian/Trustee/Issuer

NAME OF CUSTODIAN OR TRUSTEE/ISSUER

MAILING ADDRESS OF CUSTODIAN OR TRUSTEE/ISSUER

ACCOUNT NUMBER

Signature

I have read and understand the SAR-SEP Plan Notice to Employees and the information set forth below in the "Important Information About Your Elective Deferrals" section of this form. I understand that the elections made on this form supersede any prior salary reduction elections that I have made.

EMPLOYEE'S SIGNATURE

DATE

AUTHORIZED SIGNATURE FOR EMPLOYER/TITLE

DATE

SAR-SEP Plan

Important Information About Your Elective Deferrals

Note: Only Plans adopted prior to January 1, 1997 may permit salary reduction contributions.

Elective Deferral Contribution Limits

Federal law sets a dollar limit on your total elective deferrals under all plans during each calendar year. This limit is indexed for cost-of-living increases—for example, the limit for [2011] is [\$16,500]. IRS Regulations on catch-up contributions allow additional salary deferrals for individuals age 50 or older. In [2011], the catch-up contributions limit is [\$5,500] for a total maximum deferral amount of [\$22,000]. The general or catch-up contributions limits may increase each year.

Additionally, your Elective Deferrals, when added to any Employer contributions under the SAR-SEP Plan, may not exceed the lesser of 25% of your taxable Compensation (20% of net earnings for self-employed individuals) or [\$49,000] ([2011]). Finally, your ability to make Elective Deferrals will be affected by the number of employees who make Elective Deferrals and (if you are a highly compensated employee) by the amount of the Elective Deferrals made by other employees. For more information on these limits, see the Information for Employees and the Notice to Employees.

Contribution Elections

You may start making Elective Deferrals as of any _____ by returning your completed Salary Reduction Agreement no later than _____.

Your Salary Reduction Election will be effective and Elective Deferrals will be deducted from your pay beginning _____.

You may change the amount of your Elective Deferrals effective as of any _____ by returning your completed Salary Reduction Agreement no later than _____.

Elective Deferrals based on your changed election will be deducted from your pay beginning _____.

You may stop your Elective Deferrals at any time. Your election to stop will be effective as soon as possible after your election is received.

You may resume contributions effective as of any _____ by returning your completed Salary Reduction Agreement no later than _____.

For Internal Use Only

Branch No.

Account No.

Financial Advisor No.

**Morgan Stanley
Smith Barney**

SAR-SEP Plan Notice of Disallowed Deferrals/Excess SAR-SEP Contributions

NOTICE DATE

EMPLOYER'S NAME

Employee's Name

EMPLOYEE'S NAME

ADDRESS

CITY

STATE

ZIP CODE

EMPLOYEE'S SOCIAL SECURITY NUMBER

EMPLOYEE'S TELEPHONE NO.

This notice is to inform you that \$_____ of your Elective Deferrals under your SAR-SEP Plan for the Plan Year ended _____ are considered:
(MM/DD)

- ☐ **"Disallowed Deferrals"** because less than 50% of the Eligible Employees of the Employer elected to make Elective Deferrals for that Plan Year.
- ☐ **"Excess SAR-SEP Contributions"** because your Elective Deferrals exceeded the Deferral Percentage Limitation that applies to Highly Compensated Employees for that Plan Year.

Your Disallowed Deferrals or Excess SAR-SEP Contributions must be withdrawn from your SEP IRA and are includible in your gross income for federal income tax purposes for the following calendar year(s):

\$_____ for the calendar year 20____ (State calendar year)

and

\$_____ for the calendar year 20____ (State calendar year)

Income allocable to the Disallowed Deferrals or Excess SAR-SEP Contributions is includible in your gross income in the calendar year withdrawn from the Plan.

You must withdraw the Disallowed Deferrals or Excess SAR-SEP Contributions (and allocable income) by April 15th of the calendar year following the date of this Notice. If you do not withdraw these amounts by that due date, you may be subject to a 6% excise tax on the unwithdrawn amount. If the allocable income is not withdrawn by that due date, it may also be subject to an additional 10% tax when it is subsequently withdrawn.

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Morgan Stanley Smith Barney LLC

SAR-SEP Plan

Article I

PURPOSE. This SAR-SEP Plan, the SAR-SEP Plan Adoption Agreement and the Individual Retirement Accounts/Annuities established for Eligible Employees are intended to be a “salary reduction simplified employee pension” as defined in Code Section 408(k).

Article II

DEFINITIONS. The capitalized terms in this SAR-SEP Plan document and in the SAR-SEP Plan Adoption Agreement will have the meanings assigned to those terms in this Article II.

- 2.1 Actual Deferral Percentage** means, with respect to any Employee for any Plan Year, the ratio of his Elective Deferrals for such Plan Year to his Compensation for such Plan Year. The Actual Deferral Percentage of an Employee who is eligible to make Elective Deferrals, but does not do so, is zero.
- 2.2 Adjustment Factor** means the cost of living factor prescribed by the Secretary of the Treasury under Code Section 408(k)(8), as applied to such items and in such manner as the Secretary of the Treasury shall provide.
- 2.3 Adoption Agreement** means the SAR-SEP Plan Adoption Agreement which is a part of this SAR-SEP Plan.
- 2.4 Age** means the age attained on the Employee’s birthday in the current Plan Year.
- 2.5 Beneficiary** means a person designated in writing by an Eligible Employee to receive payment under the Plan in the event of such Eligible Employee’s death.
- 2.6 Code** means the Internal Revenue Code of 1986, as amended.
- 2.7 Compensation** means the amount defined below as selected by the Employer in the Adoption Agreement:
 - (a) **Form W-2 Wages.** Compensation is defined as wages within the meaning of Code Section 3401(a) and all other payments of compensation to an Employee by an Employer (in the course of the Employer’s trade or business) for which the Employer is required to furnish the Employee with a written statement under Code Sections 6041(d), 6051(a)(3) and 6052. Compensation must be determined without regard to any rules under Code Section 3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Code Section 3401(a)(2)).
 - (b) **Section 3401(a) Wages.** Compensation is defined as wages within the meaning of Code Section 3401(a) for the purposes of income tax withholding at the source, but determined without regard to any rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Code Section 3401(a)(2)).
 - (c) **Section 415 Safe-Harbor Compensation.** Compensation is defined as wages, salaries and fees for professional

services and other amounts received (without regard to whether or not an amount is paid in cash) for personal services actually rendered in the course of employment with the Employer maintaining the SAR-SEP Plan to the extent that the amounts are includable in gross income (including, but not limited to, commissions paid to salesmen, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips, bonuses, fringe benefits, and reimbursements and other expense allowances under a nonaccountable plan (as described in Regulations Section 1.61-2(c)), and excluding the following:

- (1) Employer contributions to a plan of deferred compensation which are not includable in the Employee’s gross income for the taxable year in which contributed, or Employer contributions under a SEP, or any distributions from a plan of deferred compensation;
- (2) Amounts realized from the exercise of a nonstatutory stock option, or when restricted stock (or property) held by the Employee either becomes freely transferable or is no longer subject to a substantial risk of forfeiture;
- (3) Amounts realized from the sale, exchange or other disposition of stock acquired under a statutory stock option;
- (4) Other amounts which received special tax benefits, such as premiums for group-term life insurance (but only to the extent the premiums are not includable in the gross income of the Employee); and
- (5) Other items of remuneration that are similar to any of the items listed in (1) through (4) above.

For any self-employed individual covered under this SAR-SEP Plan, Compensation will mean earned income.

Compensation shall include only that Compensation which is actually paid or made available to the Eligible Employee during the year.

Compensation shall comply with Code Section 415(c)(3) and Treasury Regulation Section 1.415(c)-2(d), as selected in the Adoption Agreement, as modified by the non-elective provisions of Treasury Regulation Sections 1.415(c)-2(e) and (g), as described below. Compensation shall include (1) regular compensation for services that, absent a severance from service, would have been paid to the Eligible Employee if the Employee continued in employment with the Employer, in accordance with Treasury Regulation Section 1.415(c)-2(e)(3)(ii), provided that such compensation is paid by the later of 2½ months after severance from employment or the end of the limitation year in which the severance from employment occurred, and (2) payments of back pay within the meaning of Treasury Regulation Section 1.415(c)-2(g)(8). Compensation shall also include “differential wage payments” within the meaning of Code Section 3401(h)(2) to an individual who is performing qualified military service described in Code Section 414(u)(5). Notwithstanding the foregoing, if elected in the Adoption Agreement, the following post-severance compensation shall be included, provided that

such compensation is paid by the later of 2½ months after severance from employment or the end of the limitation year in which the severance from employment occurred and such amounts would have been included in Compensation if they were paid prior to the Employee's severance from employment: (i) the payment for unused accrued bona fide sick, vacation or other leave that the Employee would have been able to use if employment had continued, or (ii) the payment is received by the Employee pursuant to a nonqualified unfunded deferred compensation plan and would have been paid at the same time if employment had continued, but only to the extent includible in gross income, in accordance with Treasury Regulation Section 1.415(c)-2(e)(3).

Except as elected otherwise in the Adoption Agreement, an Eligible Employee's Compensation shall include any elective deferral described in Code Section 402(g)(3) or any amount that is contributed by the Employer at the election of the Employee and that is not includable in the gross income of the Employee under Code Sections 125, 132(f)(4) or 457.

The annual Compensation of each Eligible Employee taken into account under the SAR-SEP Plan for any year shall not exceed \$200,000, as adjusted for increases in the cost-of-living in accordance with Code Section 401(a)(17)(B). If the SAR-SEP Plan determines Compensation for a period of time that contains fewer than 12 calendar months, then the annual Compensation limit is an amount equal to the annual Compensation limit for the calendar year in which the Compensation period begins multiplied by a fraction, the numerator of which is the number of full months in the Compensation period, and the denominator of which is 12.

2.8 Custodian means the financial institution or other entity which serves as trustee or custodian of the Individual Retirement Account of any Eligible Employee hereunder.

2.9 Deferral Percentage Limitation means the maximum amount of Elective Deferrals (other than Catch-up Elective Deferral contributions determined before application of the Deferral Percentage Limitation), expressed as a percentage of Compensation (which includes pre-tax deferrals listed in Section 2.7, unless elected otherwise in the Adoption Agreement) that can be contributed on behalf of any Highly Compensated Employee for a particular Plan Year and it equals the product of (I) the average of the amounts of Elective Deferrals, other than Catch-up Elective Deferral contributions, (expressed as a percentage of each such Employee's Compensation) made on behalf of all the Non-Highly Compensated Employees for the same Plan Year, and (II) 1.25. In calculating this average, the percentage for an eligible Non-Highly Compensated Employee who chooses not to have Elective Deferrals made on his or her behalf for a Plan Year is zero.

The determination of the deferral percentage for any Employee is to be made in accordance with Code Sections 408(k)(6) and 414(v) and any guidance issued thereunder.

2.10 Effective Date means, with respect to the Plan, the effective date specified in Section B.2 of the Adoption Agreement.

2.11 Elective Deferrals means contributions made to the Plan during the Plan Year by the Employer in lieu of regular cash Compensation or Compensation paid in the form of a cash

bonus pursuant to an Eligible Employee's Salary Reduction Agreement.

2.12 Eligible Employee means for each Plan Year any Employee who satisfies the eligibility requirements described in Section C of the Adoption Agreement.

2.13 Employee means any person employed as a common law employee by the Employer, a Leased Employee, a Self-Employed Individual or a common law employee of any related employer required to be aggregated with the Employer under Code Sections 414(b), (c), (m) or (o) and any successors to the Employer and the related employers.

2.14 Employer means the sole proprietor, partnership, corporation or Subchapter S corporation named as the Employer in Section A of the Adoption Agreement, all related employers required to be aggregated under Code Sections 414(b), (c), (m) or (o) and any successors to the Employer and the related employers.

2.15 Excess SAR-SEP Plan Contributions means, for any Highly Compensated Employee, the excess of (a) the amount of Elective Deferrals to the Plan on behalf of such Highly Compensated Employee, over (b) the amount equal to the product of the Limitation Deferral Percentage multiplied by such Highly Compensated Employee's Compensation for such Plan Year.

2.16 Highly Compensated Employee means an individual described in Code Section 414(q) who, during the current or preceding year:

- (a) was a 5-percent owner as defined in Code Section 416(i)(1)(B)(i); or
- (b) received Compensation in excess of \$80,000, as adjusted pursuant to Code Section 414(q)(1), and, unless elected otherwise in the Adoption Agreement, was in the top-paid group (the top 20 percent of employees, by Compensation).

2.17 Individual Retirement Account/Annuity (SEP IRA) means a traditional individual retirement account which meets the requirements of Code Section 408(a) or a traditional individual retirement annuity which meets the requirements of Code Section 408(b), and which provides for the receipt of contributions under a salary reduction Simplified Employee Pension, and which shall be approved by the IRS or shall be the IRS Model Traditional Individual Retirement Account/Annuity.

2.18 IRS means the Internal Revenue Service.

2.19 Leased Employee means an individual who provides services to the Employer pursuant to an agreement between the Employer and another entity (the "leasing organization"), if those services are performed on a substantially full-time basis for a period of at least one year and such services are performed under the primary direction or control of the Employer. However, an individual is not a Leased Employee if:

- (a) he is eligible to participate in a non-integrated money purchase pension plan maintained by the leasing organization which provides for contributions of at least 10% of compensation on his behalf, immediate participation, and full and immediate vesting; and,
- (b) the total number of such individuals who would otherwise be treated as Leased Employees under this Section 2.19

does not constitute more than 20% of the non-highly compensated workforce of the Employer.

The determination of whether an individual is a Leased Employee will be made in accordance with Code Section 414(n).

- 2.20 Plan** means this SAR-SEP Plan as adopted by the Employer.
- 2.21 Plan Administrator** means the Employer.
- 2.22 Plan Year** means the period selected in Section B.3 of the Adoption Agreement for maintaining the books and records of the Plan.
- 2.23 Salary Reduction Agreement** means a written agreement between the Employer and an Eligible Employee to reduce his cash Compensation and contribute the amount of that deduction as an Elective Deferral to his SEP IRA.
- 2.24 Self-Employed Individual** means an individual described in Code Section 401(c)(1).
- 2.25 Service** means all service as an Employee of the Employer, and, if provided in the Adoption Agreement, with the former employer in accordance with Section 3.02.
- 2.26 Simplified Employee Pension or SEP** means a plan described in Code Section 408(k).
- 2.27 Sponsor** means Morgan Stanley Smith Barney LLC or any successor thereto, if the Employer has delivered an executed copy of the Adoption Agreement to Morgan Stanley Smith Barney LLC. If the Employer has not delivered an executed copy of the Adoption Agreement to Morgan Stanley Smith Barney LLC, the Plan shall not be considered a Morgan Stanley Smith Barney LLC SAR-SEP Plan.

Article III

PARTICIPATION

- 3.01 Eligibility.** The SAR-SEP Plan shall cover each Employee (including all employees of controlled groups as described in Code Section 414(b), groups under common control as described in Code Section 414(c), and affiliated service groups as described in Code Section 414(m), and all Leased Employees who are not Employees of the Employer but are required to be treated as Employees of the Employer under Code Section 414(n), and all Employees required to be aggregated under Code Section 414(o)) who meets the requirements for Age, Service and Compensation elected by the Employer in Section C of the Adoption Agreement.
For purposes of determining which Employees are eligible to participate, the Employer may elect in Section C of the Adoption Agreement to exclude the following Employees from consideration:
 - (a) Nonresident aliens who receive no earned income from the Employer which constitutes income from sources within the United States, and
 - (b) Employees included in a unit of Employees covered by a collective bargaining agreement, if retirement benefits were the subject of good faith bargaining and the collective bargaining agreement does not expressly provide for participation in the Plan. Participation by Employees covered by a collective bargaining agreement is governed by the terms of such collective bargaining agreement.

- 3.02 Service.** For purposes of satisfying the Service requirement in Section C.2 of the Adoption Agreement, all service as an Employee will be taken into account. Any change in the Plan Year will not deprive an Employee of any Service credit which he would otherwise receive in the absence of such change. Service for a former employer will be treated as Service for the Employer if:
 - (a) the Employer describes in Section C.2 of the Adoption Agreement the former employer Service that will be treated as Service under this SAR-SEP Plan; or
 - (b) the Employer maintains a plan of that former employer.

- 3.03 Reemployment.** Each Eligible Employee who terminates employment with the Employer and is subsequently reemployed will be eligible for coverage under this SAR-SEP Plan in any subsequent Plan Year in which he satisfies the eligibility requirements selected in Section C of the Adoption Agreement.

- 3.04 Requirement to Establish Individual Retirement Account/Annuity.** This SAR-SEP Plan must be used with an IRS model traditional Individual Retirement Account/Annuity or an IRS-approved prototype traditional Individual Retirement Account/Annuity. If an Eligible Employee does not establish a traditional Individual Retirement Account/Annuity into which the Employer may deposit contributions made under the Plan because the Eligible Employee is unable or unwilling to execute the necessary documents or because the Employer is unable to locate the Eligible Employee, then the Employer shall establish a traditional Individual Retirement Account/Annuity on behalf of such Eligible Employee and the Employer may execute any necessary documents on behalf of such Eligible Employee.

Article IV

DISCRETIONARY EMPLOYER CONTRIBUTIONS

- 4.01 Contribution Amount.** The Employer will determine in its sole discretion whether or not to make a contribution for any Plan Year and the amount, if any, of that contribution. Any Employer contribution will be paid in cash to the Individual Retirement Account/Annuity of each Employee who was an Eligible Employee at any time during the Plan Year, whether or not he is employed by the Employer on the last day of that Plan Year.
- 4.02 Contribution Formula.** Each Employee who satisfies the eligibility requirements elected by the Employer in Section C of the Adoption Agreement will share in an allocation as determined in this Article IV and Section D of the Adoption Agreement.
 - (a) Discretionary Contribution Formula.**
The Employer's contribution for each Plan Year shall be allocated to the Individual Retirement Account/Annuity of each Eligible Employee in the same ratio that the Eligible Employee's Compensation bears to all Eligible Employees' Compensation for that year. The amount allocated to each Eligible Employee's Individual Retirement Account/Annuity will be limited to the lesser of 25% of the Eligible Employee's Compensation or \$40,000, as adjusted under

Code Section 415(d). For purposes of this subsection and the 25% limitation described in the preceding sentence, unless elected otherwise in the Adoption Agreement, an Eligible Employee's Compensation includes any Elective Deferral described in Code Section 402(g)(3) or any amount that is contributed by the Employer at the election of the Employee and that is not includable in the gross income of the Employee under Code Sections 125, 132(f)(4) or 457.

(b) Discretionary Integrated Contribution Formula.

Employer contributions for the Plan Year will be allocated to Eligible Employees' Individual Retirement Accounts/Annuities as follows:

Step One: Contributions will be allocated to each Eligible Employee's Individual Retirement Account/Annuity in the ratio that the Eligible Employee's total Compensation bears to all Eligible Employees' total Compensation, but not in excess of 3% of the Eligible Employee's Compensation.

Step Two: Any contributions remaining after the allocation in Step One will be allocated to each Eligible Employee's Individual Retirement Account/Annuity in the ratio that the Eligible Employee's Compensation for the Plan Year in excess of the integration level bears to the excess Compensation of all Eligible Employees, but not in excess of 3% of the Eligible Employee's Compensation. For purposes of this Step Two, in the case of any Eligible Employee who has exceeded the cumulative permitted disparity limit described below, such Eligible Employee's total Compensation for the Plan Year will be taken into account.

Step Three: Any contributions remaining after the allocation in Step Two will be allocated to each Eligible Employee's Individual Retirement Account/Annuity in the ratio that the sum of the Eligible Employee's total Compensation and Compensation in excess of the integration level bears to the sum of all Eligible Employees' total Compensation and Compensation in excess of the integration level, but not in excess of the maximum disparity rate. For purposes of this Step Three, in the case of any Eligible Employee who has exceeded the cumulative permitted disparity limit described below, two times such Eligible Employee's total Compensation for the Plan Year will be taken into account.

Step Four: Any remaining Employer contributions will be allocated to each Eligible Employee's Individual Retirement Account/Annuity in the ratio that each Eligible Employee's total Compensation for the Plan Year bears to all Eligible Employees' total Compensation for that year.

Overall Permitted Disparity Limits:

Annual Overall Permitted Disparity Limit: Notwithstanding the preceding paragraphs, for any Plan Year this SAR-SEP Plan benefits any Eligible Employee who benefits under another SEP or qualified plan described in Code Section 401(a) maintained by the Employer that

provides for permitted disparity (or imputes disparity), Employer contributions will be allocated to each Eligible Employee's Individual Retirement Account/Annuity in the ratio that the Eligible Employee's total Compensation for the Plan Year bears to all Eligible Employees' total Compensation for that year.

Cumulative Permitted Disparity Limit: Effective for Plan Years beginning on or after January 1, 1995, the cumulative permitted disparity limit for an Eligible Employee is 35 total cumulative permitted disparity years. "Total cumulative permitted disparity years" means the number of years credited to the Eligible Employee for allocation or accrual purposes under this SAR-SEP Plan or any other SEP or any qualified plan described in Code Section 401(a) (whether or not terminated) ever maintained by the Employer. For purposes of determining the Eligible Employee's cumulative permitted disparity limit, all years ending in the same Plan Year are treated as the same year. If the Eligible Employee has not benefited under a defined benefit or target benefit plan for any year beginning on or after January 1, 1994, the Eligible Employee has no cumulative permitted disparity limit.

The integration level shall be equal to the taxable wage base or such lesser amount elected by the Employer in Section D of the Adoption Agreement. The taxable wage base ("TWB") is the contribution and benefit base in effect under Section 230 of the Social Security Act at the beginning of the year.

The maximum permitted disparity rate is equal to the lesser of:

- (I) 2.7%, OR
- (II) the applicable percentage determined in accordance with the table below.

If the integration level:

is more than:	but not more than:	the applicable percentage is:
\$0	X*	2.7%
X*	80% of TWB	13%
80% of TWB	Y**	24%

* X = the greater of \$10,000 or 20% of the TWB

** Y = an amount more than 80% of the TWB but less than 100% of the TWB

If the integration level is equal to the taxable wage base, the applicable percentage is 2.7%.

In no event can the amount allocated to each Eligible Employee's Individual Retirement Account/Annuity exceed the lesser of 25% of the Eligible Employee's Compensation or \$40,000, as adjusted under Code Section 415(d). For purposes of this subsection and the 25% limitation described in the preceding sentence, unless elected otherwise in the Adoption Agreement, an Eligible Employee's

Compensation includes any elective deferral described in Code Section 402(g)(3) or any amount that is contributed by the Employer at the election of the Employee and that is not includable in the gross income of the Employee under Code Sections 125, 132(f)(4) or 457.

4.03 Deductibility of Contributions. Contributions to the SAR-SEP Plan are deductible by the Employer for the taxable year with or within which the Plan Year of the SAR-SEP Plan ends. Contributions made for a particular taxable year and contributed by the due date of the Employer's income tax return, including extensions, are deemed made in that taxable year.

Article V

ELECTIVE DEFERRALS

5.01 Purpose. This is an amendment to the Employer's existing salary reduction simplified employee pension that is intended to qualify under Code Section 408(k)(6) and any guidance issued thereunder. The provisions of this Article V are only available if the Employer maintained the salary reduction simplified employee pension prior to January 1, 1997. If the Employer did not maintain the salary reduction simplified employee pension prior to January 1, 1997, no salary reductions will be permitted.

The Employer agrees to permit Elective Deferrals to be made that will be contributed by the Employer to the Individual Retirement Account/Annuity established by or on behalf of each Eligible Employee to accept contributions made under this SAR-SEP Plan.

Each Eligible Employee may enter into a Salary Reduction Agreement on a form prescribed by the Employer to make Elective Deferrals under this SAR-SEP Plan. Elective Deferrals will be paid by the Employer to the Eligible Employee's Individual Retirement Account/Annuity in accordance with Section E of the Adoption Agreement, this Article V and Code Section 408(k)(6). If selected in Section E of the Adoption Agreement, an Eligible Employee may base Elective Deferrals on cash bonuses.

The Employer must establish and communicate to Eligible Employees reasonable nondiscriminatory procedures for making Elective Deferrals, including rules and deadlines for making, changing or terminating an election to make Elective Deferrals.

5.02 Participation and Coverage Requirements.

- (a) Elective Deferrals shall be permitted for a Plan Year only if:
 - (I) not less than 50 percent of the Employees eligible to participate elect to have amounts contributed to the SAR-SEP Plan on their behalf; and
 - (II) the Employer had no more than 25 Employees at all times during the prior Plan Year who were eligible to participate in the SAR-SEP Plan.
- (b) If the 50 percent requirement is not satisfied as of the end of any Plan Year, all the Elective Deferrals made by

Employees for that Plan Year shall be considered "disallowed deferrals," i.e., Individual Retirement Account/Annuity contributions that are not SEP IRA contributions. The Employer shall notify each affected Employee, within 2½ months after the end of the Plan Year to which the disallowed deferrals relate, that the deferrals are no longer considered SEP IRA contributions.

- (c) The notice to each affected Employee must state specifically:
 - (I) The amount of the disallowed deferrals;
 - (II) That the disallowed deferrals are includable in the Employee's gross income for the calendar year in which the amounts deferred would have been received by the Employee in cash had he or she not made an election to defer and that the income allocable to such disallowed deferrals is includable in the year withdrawn from the SEP IRA; and
 - (III) That the Employee must withdraw the disallowed deferrals (and allocable income) from the SEP IRA by April 15 following the calendar year of notification by the Employer. Those disallowed deferrals not withdrawn by April 15 following the year of notification will be subject to the Individual Retirement Account/Annuity contribution limitations of Code Sections 219 and 408 and thus may be considered an excess contribution to the Employee's Individual Retirement Account/Annuity. Disallowed deferrals may be subject to the 6% tax on excess contributions under Code Section 4973. If income allocable to a disallowed deferral is not withdrawn by April 15 following the year of notification by the Employer, the income may be subject to the 10% tax on early distributions under Code Section 72(t) when withdrawn.

Disallowed deferrals are reported in the same manner as are Excess SAR-SEP Plan Contributions.

5.03 Allocation of and Limits on Elective Deferrals.

- (a) *Allocation of Elective Deferrals.* The Employer shall contribute to each Employee's SEP IRA the amount of Elective Deferrals chosen by the Employee.
- (b) *Salary Reduction Agreement.* An Employee may elect to have Elective Deferrals made under this SAR-SEP Plan through either single-sum or continuing contributions, or both, pursuant to a Salary Reduction Agreement.
- (c) *Amount of Elective Deferrals.* An Employee may elect to have his or her Compensation reduced by the percentage or amount per pay period, indicated in Section E of the Adoption Agreement, or for a specified pay period or periods, as designated in writing. However, an Eligible Employee who would attain age 50 or over by the end of the calendar year may elect to defer an additional amount, up to the Catch-up Elective Deferral Contribution Limit for the year.

- (d) *Catch-up Elective Deferral Contributions.* An Eligible Employee who would attain age 50 or over by the end of the calendar year can choose to have an additional amount of Elective Deferrals made by the Employer, up to the Catch-up Elective Deferral Contribution Limit for the year, over any dollar or percentage limit applicable to Eligible Employees in the absence of any Catch-up Elective Deferral contributions. The “Catch-up Elective Deferral Contribution Limit” is \$5,000 for 2006 and later years. After 2006, the limit will be adjusted by the Secretary of the Treasury for cost-of-living increases under Code Section 414(v)(2)(C). Such adjustments will be in multiples of \$500. Catch-up Elective Deferral contributions will be determined in accordance with Code Section 414(v) and any guidance issued thereunder.
- (e) *Timing of Elective Deferrals.* No deferral election may be based on Compensation an Employee received, or had a right to receive, before execution of a Salary Reduction Agreement by the Employee.
- (f) An Employee’s Elective Deferrals in any calendar year cannot exceed the lesser of 25% of his or her Compensation (determined without including the SAR-SEP contributions) or the limitation under Code Section 402(g)(1) (without regard to Code Section 402(g)(1)(C)), unless the Employee would attain age 50 or over by the end of the calendar year. For such Employee, the limits in this paragraph are increased by the Catch-up Elective Deferral Contribution Limit for the year. The limitation under Code Section 402(g)(1) (without regard to Code Section 402(g)(1)(C)) is \$15,000 for 2006 and later years. After 2006, the limitation will be adjusted by the Secretary of the Treasury for cost-of-living increases under Code Section 402(g)(4). Such adjustments will be in multiples of \$500.
- (g) If an Employer maintains any other SEP to which non-elective employer contributions are made for a Plan Year, or any qualified plan to which contributions are made for such Plan Year, then an Employee’s Elective Deferrals may be limited to the extent necessary to satisfy the maximum contribution limitations under Code Section 415(c)(1).
- (h) In addition to the dollar limitation of Code Section 415(c)(1)(A), which is \$40,000 for 2002 (and indexed thereafter), contributions under this SAR-SEP Plan, when aggregated with contributions to all other SEPs and qualified defined contribution plans of the Employer, generally may not exceed 100 percent of Compensation for any Employee. Subject to the provisions of Section 6.01, if these limits are exceeded on behalf of any Employee for a particular Plan Year, that Employee’s Elective Deferrals for that year must be reduced to the extent of the excess.
- (i) Each Employee’s Elective Deferrals under this SAR-SEP Plan may be based only on the first \$200,000 of Compensation (as adjusted for increases in the cost-of-living in accordance with Code Section 401(a)(17)(B)).

5.04 Effective Date of Plan. This SAR-SEP Plan amendment shall be effective upon adoption. No Elective Deferrals may be based on Compensation an Employee could have received before adoption of this SAR-SEP Plan and execution by the Employee of a Salary Reduction Agreement.

5.05 Excess SAR-SEP Plan Contributions.

- (a) Elective Deferrals (other than Catch-up Elective Deferral contributions determined before application of the Deferral Percentage Limitation) by a Highly Compensated Employee must satisfy the Deferral Percentage Limitation under Code Section 408(k)(6). Amounts in excess of the Deferral Percentage Limitation will be deemed Excess SAR-SEP Plan Contributions on behalf of the affected Highly Compensated Employee or Employees.
- (b) The Employer shall notify each affected Highly Compensated Employee, within 2½ months following the end of the Plan Year to which the Excess SAR-SEP Plan Contributions relate, of any Excess SAR-SEP Plan Contributions to the Highly Compensated Employee’s SEP IRA for the applicable year. Such notification shall specify the amount of the Excess SAR-SEP Plan Contributions and the calendar year in which the contributions are includable in income and must provide an explanation of applicable penalties if the excess contributions are not withdrawn in a timely fashion. Excess SAR-SEP Plan Contributions of an Eligible Employee who would have attained age 50 or over by the end of the calendar year are not includable in income and do not have to be withdrawn to the extent such Employee has not reached the Catch-up Elective Deferral Contribution Limit for the Plan Year to which the Excess SAR-SEP Plan Contributions relate.
- (c) Excess SAR-SEP Plan Contributions that are includable in the Employee’s gross income are includable on the earliest date any Elective Deferrals made on behalf of the Employee during the Plan Year would have been received by the Employee had he or she originally elected to receive the amounts in cash. However, if such Excess SAR-SEP Plan Contributions (not including allocable income) total less than \$100, then the excess contributions are includable in the Employee’s gross income in the year of notification. Income allocable to such Excess SAR-SEP Plan Contributions is includable in the year of withdrawal from the SEP IRA.
- (d) If the Employer fails to notify any of the affected Employees within 2½ months following the end of the Plan Year of an Excess SAR-SEP Plan Contribution, the Employer must pay a tax equal to 10% of the Excess SAR-SEP Plan Contribution. If the Employer fails to notify Employees by the end of the Plan Year following the Plan Year in which the Excess SAR-SEP Plan Contributions arose, the Employer’s SAR-SEP Plan no longer will be considered to meet the requirements of Code Section 408(k)(6). If the SAR-SEP Plan no longer meets the requirements of Code Section 408(k)(6), then any contribution to an Employee’s Individual Retirement Account/Annuity will be subject to the Individual Retirement Account/Annuity

contribution limitations in Code Sections 219 and 408 and thus may be considered an excess contribution to the Employee's Individual Retirement Account/Annuity.

- (e) The notification to each affected Employee of the Excess SAR-SEP Plan Contributions must specifically state in a manner calculated to be understood by the average Employee:

- (I) The amount of the Excess SAR-SEP Plan Contributions attributable to that Employee's Elective Deferrals;
- (II) The calendar year in which the Excess SAR-SEP Plan Contributions are includable in gross income, to the extent applicable; and
- (III) To the extent applicable, that the Employee must withdraw the Excess SAR-SEP Plan Contributions (and allocable income) from the SEP IRA by April 15 following the year of notification by the Employer. Those excess contributions not withdrawn by April 15 following the year of notification will be subject to the Individual Retirement Account/Annuity contribution limitations of Code Sections 219 and 408 for the preceding calendar year and thus may be considered an excess contribution to the Employee's Individual Retirement Account/Annuity. Such excess contributions may be subject to the 6% tax on excess contributions under Code Section 4973. If income allocable to an Excess SAR-SEP Plan Contribution is not withdrawn by April 15 following the year of notification by the Employer, the income may be subject to the 10% tax on early distributions under Code Section 72(t) when withdrawn.

5.06 Restrictions on Withdrawals. The Employer shall notify each Employee who makes an Elective Deferral for a Plan Year that, notwithstanding the prohibition on withdrawal restrictions contained in this SAR-SEP Plan, any amount attributable to such Elective Deferrals which is withdrawn or transferred before the earlier of 2½ months after the end of the particular Plan Year and the date the Employer notifies its Employees that the Deferral Percentage Limitations have been calculated, will be includable in income for purposes of Code Sections 72(t) and 408(d)(1).

Article VI

TOP-HEAVY AND CODE SECTION 415 REQUIREMENTS

6.01 Coordination with Other Plans. If the Employer currently maintains any other qualified defined contribution plan or simplified employee pension plan, any adjustments required to satisfy Code Section 415 will be made in the contributions under such plan or plans. The Employer may choose to specify an alternative order in Section G of the Adoption Agreement for the adjustment of contributions required to satisfy Code Section 415. If the Employer maintains or ever maintained such other plan or plans, the Employer should request a ruling from the IRS as to whether such other plan or plans (in combination with this SAR-SEP Plan) satisfy the requirements of Code Section 415.

6.02 Top-Heavy Requirements.

- (a) Unless another plan of the Employer is designated in the Adoption Agreement to satisfy the top-heavy requirements of Code Section 416, each year this SAR-SEP Plan is "top-heavy" (as defined below), the Employer will make a minimum contribution to the SEP IRA of each non-key employee eligible to participate, which, in combination with other nonelective contributions, if any, is equal to the lesser of 3% of such Employee's Compensation or a percentage of Compensation equal to the percentage of Compensation at which elective (not including Catch-up Elective Deferral contributions) and nonelective contributions are made under the SAR-SEP Plan for the Plan Year for the key employee for whom such percentage is the largest.
- (b) For purposes of satisfying the minimum contribution requirement under Code Section 416, all nonelective contributions under the SAR-SEP Plan shall be taken into account, but Elective Deferrals shall not be taken into account.
- (c) Definitions. A "key employee" is any Employee or former Employee (and the beneficiaries of these Employees) who, at any time during the preceding Plan Year, was:
 - (I) An officer of the Employer with Compensation greater than \$130,000 (as adjusted under Code Section 416(i)(1)(A));
 - (II) A 5% owner of the Employer as defined in Code Section 416(i)(1)(B)(i); or
 - (III) A 1% owner of the Employer with Compensation greater than \$150,000.

This SAR-SEP Plan is "top-heavy" for a Plan Year if, as of the last day of the preceding Plan Year, the total of elective and nonelective contributions made on behalf of key employees for all the years this SAR-SEP has been in existence exceeds 60% of such contributions for all Employees. If the Employer maintains (or maintained within the preceding Plan Year) any other SEP or qualified plan in which a key employee participates (or participated), the contributions, account balances or present value of accrued benefits, whichever is applicable, must be aggregated with contributions made under this SAR-SEP. The contributions (and account balances and present value of accrued benefits, if applicable) of an Employee who ceases to be a key employee, or of an individual who has not performed services for the Employer in the preceding Plan Year, shall be disregarded. The identification of key employees and the top-heavy calculation shall be determined in accordance with Code Section 416 and any guidance issued thereunder.

Article VII

PLAN ADMINISTRATION

7.01 Administration. The Employer will have the exclusive responsibility and complete discretionary authority to control the operation, management and administration of the Employer's SAR-SEP Plan, with all powers necessary to enable it to properly carry out such responsibilities, including (but not limited

to) the power to construe the SAR-SEP Plan and the related Adoption Agreement, to determine eligibility for benefits and to resolve all interpretative, equitable or other questions that arise under the Employer's SAR-SEP Plan. The decisions of the Employer on all matters within the scope of its authority will be final and binding. The Employer will process any applicant's claim for benefits under the SAR-SEP Plan in accordance with the requirements of ERISA to the extent applicable.

The Employer will be responsible for the operation and administration of the Employer's SAR-SEP Plan and, if the SAR-SEP Plan is subject to ERISA, will be the "named fiduciary" and "plan administrator." The Employer may designate in writing a person who is not a named fiduciary to carry out any of its responsibilities under the SAR-SEP Plan. The Employer is hereby designated as agent for service of legal process.

7.02 Expenses. Any administrative expenses in connection with the establishment or maintenance of the Employer's SAR-SEP Plan, including expenses attendant to amending this document to comply with the Code and related laws and regulations will be the responsibility of the Employer. However, any expenses or fees in connection with the establishment or maintenance of an Eligible Employee's Individual Retirement Account/Annuity will be paid in accordance with the terms of his Individual Retirement Account/Annuity.

7.03 Information and Reports. The Employer will supply reports to the Secretary of the Treasury and the Secretary of Labor as may be required from time to time. The Employer will comply with the requirements of federal rules and regulations applicable to the SAR-SEP Plan and will supply the Sponsor with information necessary for it to comply with its duties under applicable law and under its contracts.

Article VIII

ADOPTION, AMENDMENT OR TERMINATION OF THE PLAN

8.01 Sponsor Amendment. The Sponsor hereby reserves the right to amend the terms of this SAR-SEP Plan and the Adoption Agreement from time to time, including any amendments to accommodate any changes in applicable federal or state laws, regulations or interpretations thereof. The Sponsor will notify the Employer of any such amendments.

8.02 Employer Amendment. The Employer may amend any provisions of the Employer's SAR-SEP Plan at any time. If an Employer chooses to amend the Employer's SAR-SEP Plan, other than by changing an election or designation provided in the Adoption Agreement or by adoption of any amendment made by the Sponsor, or if the Employer chooses not to adopt any amendment made by the Sponsor within the period of time permitted by law, then the Employer's SAR-SEP Plan will no longer be considered a prototype SAR-SEP Plan and thereafter will be considered an individually designed salary reduction SEP.

8.03 Termination. The Employer may at any time terminate the Employer's SAR-SEP Plan by an instrument in writing. If the Employer's SAR-SEP Plan should terminate for any reason, any Individual Retirement Account/Annuity established under

the SAR-SEP Plan for the benefit of an Eligible Employee will remain his separate Individual Retirement Account/Annuity, subject to the provisions of law generally applicable to an Individual Retirement Account/Annuity, without regard to the provisions of law relating to a salary reduction SEP.

8.04 Termination of Prototype Status. Nothing in the SAR-SEP Plan is intended to prohibit its adoption or maintenance as an individually designed plan. If this SAR-SEP Plan is adopted as or is considered to be an individually designed plan, the Employer may not rely on the opinion letter issued to the Sponsor, the Sponsor will have absolutely no responsibility for such individually designed plan, and the Employer's salary reduction SEP will be subject to the rules and procedures of the IRS applicable to an individually designed salary reduction SEP. The Sponsor hereby reserves the right to notify the Employer, in writing, that the Employer's SAR-SEP Plan will no longer be considered a prototype SAR-SEP Plan and thereafter will be considered an individually designed salary reduction SEP (e.g., in the event the Sponsor determines that it will be unable to comply with the amendment notification requirement under Section 8.01 or the Employer no longer maintains the requisite Individual Retirement Account/Annuity with the Custodian).

8.05 Notification of Change in Prototype Status. The Sponsor shall promptly notify the Employer of any amendments to the SAR-SEP Plan. The Sponsor shall promptly notify the Employer if the Sponsor will no longer sponsor this SAR-SEP Plan.

Article IX

MISCELLANEOUS

9.01 Headings not a Part Hereof. The headings of Articles and Sections in this SAR-SEP Plan are included for convenience only and will not be considered a part of, or any aid to, its construction.

9.02 Nonalienation of Benefits. The interest of benefits of any Eligible Employee or his Beneficiaries under this SAR-SEP Plan will be neither transferable nor subject to alienation, assignment or encumbrance by him or his Beneficiaries, except to the extent permitted by law.

9.03 Exclusive Benefit. Contributions made under the SAR-SEP Plan will not be used for, or diverted to, any purpose other than the exclusive benefit of Eligible Employees and their Beneficiaries.

9.04 No Guaranty of Employment. Nothing contained in the SAR-SEP Plan will give any Employee any right, legal or equitable, to continued employment with the Employer.

9.05 No Restrictions on Withdrawal. Withdrawals from an Individual Retirement Account/Annuity may be made in accordance with and subject to the terms and conditions of the Individual Retirement Account/Annuity. The Employer may not preclude an Employee or former Employee from withdrawing any amount contributed to his Individual Retirement Account/Annuity or otherwise impose restrictions on such withdrawals. In addition, an Employer may not condition any future contributions on the retention of any portion of

those contributions in the Employee's Individual Retirement Account/Annuity.

- 9.06 Nonforfeitable Contributions.** All contributions made under the SAR-SEP Plan will be nonforfeitable when made.
- 9.07 Nondiscrimination.** The SAR-SEP Plan will in no way be construed to permit Employer contributions which discriminate in favor of any Highly Compensated Employee.
- 9.08 New York Law Applies.** The Plan shall be construed, administered and enforced in accordance with the laws of the State of New York, to the extent permitted by law.
- 9.09 Gender.** For the purposes of the Plan, words in the masculine include the feminine and neuter genders, words in the neuter include the masculine and feminine genders, the singular

includes the plural, and vice versa, unless qualified by the context.

- 9.10 Sponsor.** The Sponsor will not be required to determine that any action by the Employer or an Employee, former Employee or Beneficiary is authorized by the SAR-SEP Plan or applicable law. The Sponsor assumes no responsibility for the administration or operation of the Employer's SAR-SEP Plan or the effect of the Employer's SAR-SEP Plan under federal, state or local law.



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

Plan Description: Prototype Salary Reduction SEP 024
FFN: 50416610000-024 Case: 201100120 EIN: 26-4310844
Letter Serial No: M493077a

MORGAN STANLEY SMITH BARNEY LLC
2000 WESTCHESTER AVENUE
PURCHASE, NY 10577

Contact Person:
Ms. Roslynn B. Perry
Telephone Number:
(202) 283-9624
In Reference To: SE:T:EP:RA
Date: 07/12/2011

Dear Applicant:

In our opinion, the form of your Simplified Employee Pension (SEP) arrangement is acceptable under section 408(k) of the Internal Revenue Code, with respect to an employer's SEP that by its terms as in effect on December 31, 1996, provided that an employee may make the salary reduction election described in Code section 408(k)(6)(A). This SEP arrangement is approved for use only in conjunction with an Individual Retirement Arrangement (IRA) which meets the requirements of Code section 408 and has received a favorable opinion letter, or a model IRA (Forms 5305 and 5305-A).

An employer who adopts this approved prototype plan to amend a SEP that by its terms as in effect on December 31, 1996, provided that an employee may make the salary reduction election described in Code section 408(k)(6)(A) will be considered to have a retirement savings program that satisfies the requirements of Code section 408 provided that it is used in conjunction with an approved IRA. Please provide a copy of this letter to each adopting employer.

Code section 408(l) and related regulations require that employers who adopt this SEP arrangement furnish employees in writing certain information about this SEP arrangement and annual reports of savings program transactions.

Your program may have to be amended to include or revise provisions in order to comply with future changes in the law or regulations.

If you have any questions concerning IRS processing of this case, call us at the above telephone number. Please refer to the Letter Serial Number and File Folder Number shown in the heading of this letter. Please provide those adopting this plan with your phone number, and advise them to contact your office if they have any questions about the operation of this plan.

You should keep this letter as a permanent record. Please notify us if you terminate the form of this plan.

Sincerely Yours,

A handwritten signature in black ink, appearing to read "Andrew E. Zuckerman".

Andrew E. Zuckerman
Director, Employee Plans Rulings and Agreements

INTENTIONALLY LEFT BLANK

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