

NOTICE OF CLASS ACTION SETTLEMENT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re Morgan Stanley Data Security Litigation
1:20-cv-05914-AT (S.D.N.Y.)

If you are a former or current Morgan Stanley client who was sent a data breach notice letter in July 2020 and/or June 2021 notifying you that your Personal Information may have been compromised in Data Security Incidents, you may be eligible for benefits from a class action Settlement.

A federal court has authorized this Notice. This is not a solicitation from a lawyer. Please read this Notice carefully and completely.

- A Settlement has been reached with Morgan Stanley Smith Barney LLC (“Morgan Stanley” or “Defendant”) in a class action lawsuit regarding the decommissioning or retiring of information technology (“IT”) equipment that contained client data that occurred in 2016 and 2019 (“the Data Security Incidents”). Morgan Stanley issued notices to customers regarding the Data Security Incidents in July 2020 and/or June 2021. The Settlement, if approved, would create a fund of \$60 million, which will be used to provide substantial benefits to Settlement Class Members including at least 24-months of fraud insurance coverage, reimbursement to the members of the Settlement Class who file a valid claim for out-of-pocket losses and lost time researching and remedying the effects of the Data Security Incidents, as well as to pay Plaintiffs’ attorneys’ fees, costs, and expenses, and a service award for each of the named Plaintiffs.
- In addition, Morgan Stanley will hire a third party to work for a period of 12 months to attempt to locate and retrieve additional IT devices which have been sold to third parties.
- Morgan Stanley will also separately pay reasonable costs of notice and administration of the Settlement.
- The lawsuit was filed asserting claims against Morgan Stanley relating to the Data Security Incidents. Plaintiffs allege that in 2016 and 2019, Morgan Stanley failed to properly dispose of certain IT assets and that, as a result, unauthorized third parties may have gained access to Morgan Stanley’s clients’ private information, including, but not limited to, names, addresses, Social Security numbers, driver’s license numbers, income, asset value, asset holding information, dates of birth and other personal information (collectively, “PII”). Some of these devices that may contain customer PII were sold on the internet and/or remain unaccounted for.
- Morgan Stanley denies all the claims, denies any liability whatsoever, and believes that no member of the Settlement Class, including Plaintiffs, has sustained any damages or injuries due to the Data Security Incidents.
- The Settlement Class includes all individuals with existing or closed Morgan Stanley accounts established in the United States who received the notice letters sent by Morgan Stanley regarding the Data Security Incidents in July 2020 and/or June 2021. If you are a member of the Settlement Class, you should have received a Settlement notice from the Claims Administrator in the mail or by email. That notice included a unique code for you to verify your identity to receive certain Settlement benefits described in this notice. If for some reason you have not received a unique

Questions? Call 1-855-604-1744 or visit www.MorganStanleyDataSecuritySettlement.com

code, but believe you are a Settlement Class Member, please call 1-855-604-1744 to verify your identity and receive further information.

- You must file a Claim Form to receive a payment. You can file a claim online on this website, www.MorganStanleyDataSecuritySettlement.com, download a Claim Form and mail it, or you may call 1-855-604-1744 and ask that a Claim Form be mailed to you. **The claim deadline is August 11, 2022.**

Your legal rights are affected even if you do nothing. Read this Notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
Submit a Claim Form Deadline: Postmarked by August 11, 2022	This is the only way to receive a monetary payment for losses suffered as a result of the Data Security Incidents. You can file a claim online at www.MorganStanleyDataSecuritySettlement.com , download a Claim Form from the Settlement Website and mail it, or you may call 1-855-604-1744 and ask that a Claim Form be mailed to you. For detailed information on how to submit a Claim Form, see Questions 9 through 11 below.
Ask to be Excluded from the Settlement Deadline: Postmarked by July 12, 2022	You will not receive a payment or any other Settlement benefits, but you will retain the right to bring your own action against Morgan Stanley related to the Data Security Incidents. This is the only option that allows you to bring a separate action against Morgan Stanley related to the Data Security Incidents. For detailed information on how to exclude yourself from the Settlement, see Questions 13 through 15 below.
Object to the Settlement Deadline: Postmarked by July 12, 2022	You may write to the Court about why you do not like the Settlement. You may also write the Court about why you support the Settlement. For detailed information on how to object to or comment on the Settlement, see Questions 18 and 19 below.
Go to the Final Approval Hearing August 5, 2022	You may ask to speak in Court about the fairness of the Settlement. Any objectors who wish to speak at the hearing shall notify the Court by sending an email to EngelmayerNYSDCChambers@nysd.uscourts.gov by July 22, 2022 .
Do Nothing	If you do nothing, you will not get a monetary payment from this Settlement. If the Court grants final approval, you will be entitled to enroll in Aura’s Financial Shield Services for a period of at least 24 months from the Effective Date of the Settlement, which will provide broad fraud insurance coverage. You will give up rights to submit a claim in this Settlement or to bring a separate action against Morgan Stanley related to the Data Security Incidents.

- These options – **and the deadlines to exercise them** – are explained in this notice.
- The Court in charge of this case still has to decide whether to grant final approval of the Settlement. Payments will only be made after the Court grants final approval of the Settlement and after any appeals are resolved in favor of the Settlement.

Questions? Call 1-855-604-1744 or visit www.MorganStanleyDataSecuritySettlement.com

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BASIC INFORMATION

1. What is this Notice about?

The Court authorized this Notice to inform you about the proposed Settlement of this class action lawsuit known as *In re Morgan Stanley Data Security Litigation*, 1:20-cv-05914-AT (S.D.N.Y.) (the “Action”) and about all of your options before the Court decides whether to give “final approval” to the Settlement.

Judge Analisa Torres of the United States District Court for the Southern District of New York is overseeing this case. The people who brought the lawsuit are called the Plaintiffs. Morgan Stanley Smith Barney LLC (“Morgan Stanley”) is called the Defendant.

2. What is this lawsuit about?

The lawsuit claims that Morgan Stanley is responsible for two separate data security incidents (collectively, the “Data Security Incidents”) that Plaintiffs allege compromised the personal identifying information (“PII”) of approximately 15 million of Morgan Stanley’s current and former clients. Plaintiffs allege that in 2016 and 2019, Morgan Stanley failed to properly dispose of information technology (“IT”) equipment containing client PII. Many of these IT devices were sold to third parties and remain unaccounted for. Plaintiffs allege that, as a result of the Data Security Incidents, unauthorized third parties potentially gained access to sensitive and private information of Morgan Stanley’s current and former clients. The IT equipment at issue may have retained Morgan Stanley client PII such as: Social Security numbers, income, asset value, holding information, passport information, work and home addresses, telephone numbers, family members’ names, dates of birth and other financial information.

The lawsuit asserts claims including: negligence, invasion of privacy, breach of implied contract, negligence per se, breach of fiduciary duty, and breach of confidence. The lawsuit seeks compensation for people who had losses as a result of the Data Security Incidents.

Morgan Stanley denies all of Plaintiffs’ claims, denies any liability whatsoever, and believes that no member of the Settlement Class, including the Plaintiffs, has sustained any damages or injuries due to the Data Security Incidents.

3. Why is this lawsuit a class action?

In a class action, one or more people called “Class Representatives” or “Plaintiffs” sue on behalf of all people who have similar claims. All the people who have claims similar to the Plaintiffs are known as Class Members, except for those who exclude themselves from the class.

In this case, the Class Representatives are John and Midori Nelson, Sylvia Tillman, Mark Blythe, Vivian Yates, Cheryl and Richard Gamen, Amresh Jaijee, Richard Mausner, Desiree Shapouri, and Howard Katz.

4. Why is there a Settlement?

By agreeing to settle, both sides avoid the cost and risk of a trial, and Settlement Class Members who submit a valid claim will promptly get compensation. The Class Representatives and their attorneys believe the Settlement is fair, reasonable, and adequate and, thus, in the best interests of the Settlement Class and its members. The Settlement is not an admission that Morgan Stanley did something wrong, but rather is a compromise to end the lawsuit.

Questions? Call 1-855-604-1744 or visit www.MorganStanleyDataSecuritySettlement.com

WHO IS IN THE SETTLEMENT?

5. Who is included in the Settlement?

You are included in the Settlement if you have or had a Morgan Stanley account established in the United States and were sent a notice letter of the Data Security Incidents by Morgan Stanley in July 2020 and/or June 2021. If you are a member of the Settlement Class, you should have received a Settlement notice from the Settlement Administrator in the mail or by email. That notice included a unique code for you to verify your identity to receive certain Settlement benefits described in this notice. If for some reason you have not received a unique code, but believe you are a Settlement Class Member, please call 1-855-604-1744 to verify your identity and receive further information.

Specifically excluded from the Settlement Class are: (i) Morgan Stanley; (ii) the subsidiaries, parents, and affiliates of Morgan Stanley; (iii) any directors and senior executive officers of the entities covered by (i) and (ii) during the Class Period and members of their immediate families; (iv) any firm, trust, corporation, or other entity in which Morgan Stanley has or had a controlling interest; and (v) the legal representatives, heirs, successors, and assigns of any such excluded persons or entities. Also excluded from the Class are Settlement Class Members who timely and validly request exclusion from the Settlement Class (for more information about requesting exclusion see Questions 13–15).

6. What if I am not sure whether I am included in the Settlement?

If you are not sure whether you are included in the Settlement, or have any other questions related to the Settlement, you may call 1-855-604-1744 with questions. You may also write with questions to Morgan Stanley Data Security Settlement, Settlement Administrator, PO Box 6758, Portland, OR 97228-6758.

Please do not contact the Court with questions.

THE SETTLEMENT BENEFITS

7. What does the Settlement provide?

To fully settle and release the claims of the Settlement Class Members related to the Data Security Incidents, Morgan Stanley has agreed to establish a \$60 million fund (the “Settlement Fund”) to (1) make fraud insurance coverage available to all Settlement Class Members for a period of at least 24 months; (2) make payments to Settlement Class Members who file a valid claim for out-of-pocket losses and lost time spent researching and remedying issues related to the Data Security Incidents; and (3) pay for attorneys’ fees, costs, and expenses incurred by counsel for the Settlement Class as well as service awards for Plaintiffs.

Additionally, Morgan Stanley has agreed to hire a third party to attempt to locate and retrieve additional decommissioned IT devices which have been sold to third parties. Morgan Stanley has also made substantial changes to its data security practices.

In addition, Morgan Stanley will pay reasonable costs of notice and administration of this Settlement separately from the Settlement Fund.

8. What benefits are available?

All Settlement Class Members will be provided access to Aura’s Financial Shield for a period of at least 24 months from the Effective Date of the Settlement without the need to submit a Claim Form.

Questions? Call 1-855-604-1744 or visit www.MorganStanleyDataSecuritySettlement.com

A link with a redeemable code to be used directly with Aura’s Financial Shield was provided in the Notice you received from the Settlement Administrator in the mail or by email. The financial fraud coverage provided focuses on protecting financial assets, freezing identity at 10 different bureaus including the three main credit bureaus, home and property title monitoring, income tax protection and other services. Unlike traditional credit monitoring which focuses on identifying attempts to open new accounts in your name, the Financial Shield service provides real-time monitoring of your existing financial and investment accounts to alert you of any account changes and account takeover attempts, such as changes in address, a new signatory request, or requesting a replacement credit card. More information on the coverage may be found on the Settlement Website, www.MorganStanleyDataSecuritySettlement.com.

The Settlement also provides for substantial monetary relief. The Settlement Fund will be used to make payments to people who submit valid claims for expenses and/or lost time incurred as a result of the Data Security Incidents. Settlement Class Members may submit a claim for both types of relief.

Settlement Class Members who spent time researching or remedying issues related to the Data Security Incidents may file a claim to receive reimbursement for up to four (4) hours at a rate of \$25 per hour, with an attestation that their actions were taken in response to the Data Security Incidents. No separate documentation will be required for claims for lost time up to four (4) hours.

Settlement Class Members are eligible to receive reimbursement of up to \$10,000 (in total per Settlement Class Member) for out-of-pocket expenses such as: unreimbursed losses relating to fraud or identity theft; professional fees including attorneys’ fees, accountants’ fees, and fees for credit repair services; costs associated with freezing and unfreezing credit with any credit reporting agency; credit monitoring costs that were incurred on or after July 1, 2020, through the date of claim submission; miscellaneous expenses such as notary, fax, postage, copying and mileage; and reimbursement of up to an additional five (5) hours of time if Settlement Class Members are able to document time lost remedying issues related to the Data Security Incidents (at \$25 per hour or, if you lost work, at a rate of documented compensation up to \$50 per hour). Reasonable documentation must be submitted with your Claim Form showing that the Data Security Incidents caused the costs incurred in order to receive reimbursement for out-of-pocket expenses.

If there is insufficient money in the Settlement Fund to pay all claims, claims for out-of-pocket losses and lost time will be reduced on a pro rata basis (equal share). If money remains in the Settlement Fund after the payment of all claims, attorneys’ fees, costs, and expenses, and service awards to the Class Representatives, the remaining money will be used to extend the coverage period for Aura’s Financial Shield services for all Settlement Class Members.

HOW TO GET BENEFITS

9. How do I get benefits?

At least 24 months of Aura’s Financial Shield are available to all Settlement Class Members without the need to file a Claim Form. Settlement Class Members will need to register for the service within 24 months of the Effective Date of the Settlement using the unique code sent in the Settlement notice. If you did not receive a unique code, but believe you are a Settlement Class Member, please call the Settlement Administrator at 1-855-604-1744 to verify your identity and receive further information.

To get a monetary payment from the Settlement, you must file a Claim Form. Please read the instructions carefully, fill out the Claim Form, provide reasonable documentation (where applicable), and submit it online at www.MorganStanleyDataSecuritySettlement.com or mail it **postmarked no**

Questions? Call 1-855-604-1744 or visit www.MorganStanleyDataSecuritySettlement.com

later than August 11, 2022, to Morgan Stanley Data Security Settlement, Settlement Administrator, PO Box 6758, Portland, OR 97228-6758. You may request a claim form by mail by calling 1-855-604-1744 or visiting www.MorganStanleyDataSecuritySettlement.com.

After the Court grants Final Approval, if your Claim Form is determined to be complete and valid, you will receive an email (at the email address provided in the Claim Form) prompting you to select how you would like to be paid. You can receive your payment via a variety of digital options such as digital debit card or PayPal, or you can elect to receive a check.

10. How will claims be decided?

The Settlement Administrator will initially decide whether the information provided on a Claim Form is complete and valid. The Settlement Administrator may request additional information from any claimant. If the required information is not provided on a timely basis, the claim will be considered invalid and will not be paid.

REMAINING IN THE SETTLEMENT

11. Do I need to do anything to remain in the Settlement?

You do not have to do anything to remain in the Settlement, but if you want a payment, you must submit a Claim Form **postmarked by August 11, 2022**. To obtain the fraud insurance coverage, you need to register within 24 months of the Effective Date of the Settlement with the unique code provided to you.

12. What am I giving up as part of the Settlement?

If the Settlement becomes final, you will give up your right to bring a separate action against Morgan Stanley for any claims related to the Data Security Incidents. The specific claims you are giving up against Morgan Stanley are described in Section 13 of the Settlement Agreement. You will be releasing Morgan Stanley and all related people or entities as described in Section 13 of the Settlement Agreement. The Settlement Agreement is available on the Settlement Website at www.MorganStanleyDataSecuritySettlement.com.

The Settlement Agreement describes the released claims with specific descriptions, so read it carefully. If you have any questions you can talk to the law firms listed in Question 16 for free, or you can, of course, talk to your own lawyer at your own expense.

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you do not want benefits from this Settlement, and you want to keep the right to bring a separate action against Morgan Stanley on your own regarding the Data Security Incidents, then you must take steps to get out of the Settlement Class. This is called excluding yourself from – or is sometimes referred to as “opting out” of – the Settlement Class.

13. If I exclude myself, can I get benefits from this Settlement?

No. If you exclude yourself, you will not be entitled to any benefits, including Aura’s Financial Shield Services or any money from the Settlement. You will also not be bound by any judgment in this case. If you exclude yourself, you may not submit a Claim Form to ask for a payment and you may not enroll in Aura’s Financial Shield as part of the Settlement.

Questions? Call 1-855-604-1744 or visit www.MorganStanleyDataSecuritySettlement.com

14. If I do not exclude myself, can I bring a claim against Morgan Stanley for the same thing later?

No. Unless you exclude yourself, you give up any right to bring a separate action against Morgan Stanley for the claims that this Settlement resolves. You must exclude yourself from the Settlement Class if you want to bring a separate action or to be part of any different proceeding relating to the claims in this case.

15. How do I exclude myself from the Settlement?

To exclude yourself, send a letter that says you want to be excluded from the Settlement in *In re Morgan Stanley Data Security Litigation*, 1:20-cv-05914-AT (S.D.N.Y.). Include your name, address, and signature. You cannot ask to be excluded on the phone, by email, or on the Settlement Website. You must mail your Exclusion Request **postmarked by July 12, 2022**, to:

Morgan Stanley Data Security Settlement
ATTN: EXCLUSION REQUEST
c/o Settlement Administrator
PO Box 6758
Portland, OR 97228-6758

Also mail a copy of your Exclusion Request to the lawyers listed in Question 16 below.

THE LAWYERS REPRESENTING YOU

16. Do I have a lawyer in this case?

Yes. The Court appointed the following lawyers as “Class Counsel” to represent all members of the Settlement Class:

Jean S. Martin Morgan & Morgan 201 N. Franklin Street, 7th Floor Tampa, FL 33602 1-813-559-4908 jeanmartin@ForThePeople.com	Linda P. Nussbaum Nussbaum Law Group, P.C. 1211 Avenue of the Americas, 40th Floor New York, NY 10036 1-917-438-9189 lnussbaum@nussbaumpc.com
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You will not be individually charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

17. How will Class Counsel be paid?

The Settlement Agreement does not provide for a specific amount to be paid to Class Counsel, but does allow the Court to award reasonable attorneys’ fees and costs incurred on behalf of the Class to be paid from the Settlement Fund. Class Counsel intends to request up to 33 1/3% of the Settlement Fund for attorneys’ fees and reimbursement of reasonable, actual out-of-pocket expenses incurred in the litigation. The Court will decide the amount of fees and expenses to award.

Class Counsel will also request that Service Awards of \$5,000 be paid to each of the Class Representatives for bringing the lawsuit and serving as representatives in this litigation.

Questions? Call 1-855-604-1744 or visit www.MorganStanleyDataSecuritySettlement.com

OBJECTING TO THE SETTLEMENT

You can tell the Court that you do not agree with the Settlement or some part of it.

18. How do I tell the Court that I do not like the Settlement?

You can object to the Settlement if you do not like it or some part of it. The Court will consider your views. To do so, you must file a written objection in this case, *In re Morgan Stanley Data Security Litigation*, 1:20-cv-05914-AT (S.D.N.Y.), with the Clerk of the Court at the address below and mail a copy of your objection to Class Counsel and Counsel for Morgan Stanley at the addresses below.

Your objection must include all of the following information: (i) your full name, address, telephone number, and e-mail address (if any); (ii) information identifying you as a Settlement Class Member; (iii) a written statement of all grounds for the objection, accompanied by any legal support for the objection that you believe applicable; (iv) the identity of all counsel representing you; (v) a statement whether you and/or your counsel will appear at the Final Approval Hearing; and (vi) your signature and the signature of your duly authorized attorney or other duly authorized representative, if applicable.

Your objection must be **postmarked no later than July 12, 2022** to:

Court	Class Counsel	Defense Counsel
Clerk of Court Daniel Patrick Moynihan United States Courthouse 500 Pearl St. New York, NY 10007-1312	Jean S. Martin Morgan & Morgan 201 N. Franklin Street, 7th Floor Tampa, FL 33602 Linda P. Nussbaum Nussbaum Law Group, P.C. 1211 Avenue of the Americas, 40th Floor New York, NY 10036	Brad S. Karp Susanna M. Buerger Paul, Weiss, Rifkind, Wharton & Garrison LLP 1285 Avenue of the Americas New York, NY 10019 Jane B. O'Brien Paul, Weiss, Rifkind, Wharton & Garrison LLP 2001 K Street NW Washington, DC 20016

Any objectors who wish to speak at the hearing shall notify the court by sending an email to EngelmayerNYSDCChambers@nysd.uscourts.gov by **July 22, 2022**.

19. What is the difference between objecting and asking to be excluded?

Objecting is telling the Court that you do not like something about the Settlement and why you do not think it should be approved. You can object only if you do not exclude yourself from the Settlement Class. Excluding yourself is telling the Court that you do not want to be part of the Settlement. If you exclude yourself, you cannot object to the Settlement because the case no longer affects you.

THE COURT'S FINAL APPROVAL HEARING

The Court will hold a hearing to decide whether to grant final approval of the Settlement and any requests for attorneys' fees, costs, and expenses and service awards for the Class Representatives.

Questions? Call 1-855-604-1744 or visit www.MorganStanleyDataSecuritySettlement.com

20. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Final Approval Hearing at **9:30 am ET on August 5, 2022**, via teleconference. The details for attending the teleconference can be found on the Settlement Website. You do not need to attend this hearing to receive benefits from the Settlement. Any objectors who wish to speak at the hearing shall notify the Court by sending an email to EngelmayerNYSDCChambers@nysd.uscourts.gov by **July 22, 2022**. The hearing may be moved to a different date or time without additional notice, so it is a good idea to check www.MorganStanleyDataSecuritySettlement.com or call 1-855-604-1744.

At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are timely objections, the Court will consider them and will listen to people who have asked to speak at the hearing if such a request has been properly made. The Court will also rule on the request for an award of attorneys' fees and reasonable costs and expenses, as well as the request for service awards for the Class Representatives. After the hearing, the Court will decide whether to approve the Settlement. We do not know how long the Court will take to make these decisions.

21. Do I have to attend the hearing?

No. Class Counsel will present the Settlement to the Court. You or your own lawyer are welcome to attend at your expense, but you are not required to do so. If you send an objection, you do not have to come to the Court to talk about it. As long as you filed your written objection on time with the Court and mailed it according to the instructions provided in Question 18, the Court will consider it.

22. May I speak at the hearing?

You may ask the Court for permission to speak at the Final Approval Hearing. To do so, you must file an objection according to the instructions in Question 18, including all of the information required. You do not need to attend this hearing to receive benefits from the Settlement. Any objectors who wish to speak at the hearing shall notify the Court by sending an email to EngelmayerNYSDCChambers@nysd.uscourts.gov by **July 22, 2022**. You cannot speak at the hearing if you exclude yourself from the Settlement.

IF YOU DO NOTHING

23. What happens if I do nothing?

If you do nothing, you will get no money from this Settlement, but if you register, you will be entitled to access Aura's Financial Shield Services for a period of at least 24 months from the Effective Date of the Settlement, if the Court grants final approval. Once final approval of the Settlement is granted and the judgment becomes final, you will not be able to bring a separate action against Morgan Stanley about the legal issues in this case.

You must exclude yourself from the Settlement if you want to retain the right to bring a separate action against Morgan Stanley relating to the Data Security Incidents.

GETTING MORE INFORMATION

24. How do I get more information?

This Notice only provides a summary of the proposed Settlement. You are urged to review the complete details about the Settlement which can be found in the Settlement Agreement available at www.MorganStanleyDataSecuritySettlement.com. You also may write with questions to the

Questions? Call 1-855-604-1744 or visit www.MorganStanleyDataSecuritySettlement.com

Settlement Administrator at info@MorganStanleyDataSecuritySettlement.com or call the toll-free number, 1-855-604-1744.

Questions? Call 1-855-604-1744 or visit www.MorganStanleyDataSecuritySettlement.com