FMC TECHNOLOGIES INC
Form 11-K
June 27, 2003

# UNITED STATES

# SECURITIES AND EXCHANGE COMMISSION

**Washington, D. C. 20549**

# FORM 11-K

x **ANNUAL REPORT PURSUANT TO SECTION 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934 (FEE REQUIRED)**

**For the fiscal year ended December 31, 2002**

**OR**

¨ **TRANSITION REPORT PURSUANT TO SECTION 15 (d) OF THE SECURITIES EXCHANGE ACT OF 1934 (NO FEE REQUIRED)**

**For the transition period from ____________ to ____________**

**Commission file number 1-16489**

**A. FMC PUERTO RICO SAVINGS AND INVESTMENT PLAN**

**(Full title of the Plan)**

**B. FMC TECHNOLOGIES, INC.**

**200 East Randolph Drive, Chicago, Illinois 60601**

**(Name and Address of Principal Executive Office of Issuer of Securities Held by the Plan)**

SIGNATURES

The Plan. Pursuant to the requirements of the Securities Exchange Act of 1934, FMC Technologies, Inc., as Plan Administrator, has duly caused this annual report to be signed on its behalf by the undersigned thereunto duly authorized.

FMC PUERTO RICO SAVINGS AND INVESTMENT PLAN

By /s/ JEFFREY W. CARR

Jeffrey W. Carr

Vice President, General Counsel and Secretary

Date: June 27, 2003

**FMC PUERTO RICO SAVINGS AND INVESTMENT PLAN**

**TABLE OF CONTENTS**

Independent Auditors Report

The Employee Welfare Benefits Plan

Committee of FMC Technologies, Inc.:

We have audited the accompanying statements of net assets available for benefits of the FMC Puerto Rico Savings and Investment Plan (the Plan ) as of December 31, 2002 and 2001, and the related statements of changes in net assets available for benefits for the years then ended. These financial statements are the responsibility of the Plan s management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the net assets available for benefits of the Plan as of December 31, 2002 and 2001, and the changes in net assets available for benefits for the years then ended in conformity with accounting principles generally accepted in the United States of America.

Our audits were performed for the purpose of forming an opinion on the basic financial statements taken as a whole. The supplemental Schedule of Assets (Held at End of Year) is presented for the purpose of additional analysis and is not a required part of the basic financial statements but is supplementary information required by the Department of Labor s Rules and Regulations for Reporting and Disclosure under the Employee Retirement Income Security Act of 1974. The supplemental schedule is the responsibility of the Plan s management. This supplemental schedule has been subjected to the auditing procedures applied in the audits of the basic financial statements and, in our opinion, is fairly stated in all material respects in relation to the basic financial statements taken as a whole.

/s/ KPMG LLP

Chicago, Illinois

June 16, 2003

**FMC PUERTO RICO SAVINGS AND INVESTMENT PLAN**

Statements of Net Assets Available for Benefits

December 31, 2002 and 2001

| | 2002 | 2001 |
|---|---|---|
| Assets: | | |
| Investments, at fair value | $ 94,708 | $ 92,988 |
| Participant loan | 3,128 | 5,070 |
| Net assets available for benefits | $ 97,836 | $ 98,058 |

See accompanying notes to financial statements.

**FMC PUERTO RICO SAVINGS AND INVESTMENT PLAN**

Statements of Changes in Net Assets Available for Benefits

For the Years Ended December 31, 2002 and 2001

| | 2002 | 2001 |
|---|---|---|
| Additions: | | |
| Net appreciation (depreciation) in fair value of investments | $ (20,084) | $ 14,749 |
| Interest and dividend income | 582 | 538 |
| Net investment income (loss) | (19,502) | 15,287 |
| Employee contributions | 14,030 | 11,333 |
| Employer contributions | 9,562 | 6,375 |
| Total additions | 4,090 | 32,995 |
| Deductions: | | |
| Distributions to participants | 3,000 | 3,831 |
| Administrative expenses | 1,312 | 916 |
| Total deductions | 4,312 | 4,747 |
| Net additions (deductions) | (222) | 28,248 |
| Net assets available for benefits, beginning of year | 98,058 | 69,810 |
| Net assets available for benefits, end of year | $ 97,836 | $ 98,058 |

See accompanying notes to financial statements.

**FMC PUERTO RICO SAVINGS AND INVESTMENT PLAN**

**Notes to Financial Statements**

**December 31, 2002 and 2001**

## (1) Description of the Plan

The following description of the FMC Puerto Rico Savings and Investment Plan (the Plan ) provides only general information. Participants should refer to the Plan text for a more complete description of the Plan s provisions.

FMC Technologies AG, formerly known as FMC International AG, a wholly owned subsidiary of FMC Technologies, Inc. (the Company ), became the successor-sponsor of the Plan, effective May 1, 2001, in conjunction with the spin-off of FMC Technologies, Inc. from FMC Corporation (Note 6).

### *(a) General*

The Plan is a qualified salary-reduction plan under Section 1165(a) of the Internal Revenue Code, which covers all permanent full-time and part-time employees of the Puerto Rico Branch of FMC Technologies AG working in Puerto Rico other than employees who generally reside or work outside of Puerto Rico and employees covered by certain collective bargaining agreements. Such employees are eligible to participate in the Plan immediately after commencement of their employment with FMC Technologies AG. The Plan is subject to the provisions of the Employee Retirement Income Security Act of 1974, as amended ( ERISA ). The Plan s inception was effective January 1, 1998, and it was amended and restated effective January 1, 2000 to reflect Plan changes and changes in the Internal Revenue Code. FMC Technologies AG has delegated the authority to act as the Plan administrator to the FMC Technologies, Inc. Employee Welfare Benefits Plan Committee (the Committee ).

### *(b) Contributions*

Participants may elect to have their annual compensation reduced by up to $8,000, subject to adjustments to reflect changes in the cost of living, but not by more than 10% of their total compensation in the aggregate. The aggregate amount of such reductions is contributed to the Plan trust on a pretax basis. Participants may also elect to make after-tax contributions, either as an alternative to pretax contributions, or in addition to the maximum pretax contributions of $8,000 (but not more than 20% of their total compensation in the aggregate). The Company makes matching contributions ranging from 40% to 100% of the portion of those contributions not in excess of 5% of each participant s compensation ( Basic Contribution ), regardless of the $8,000 limit on pretax contributions. At December 31, 2002, 20 current and former employees participated in the Plan.

### *(c) Trust and Record Keeping*

The Committee and Banco Popular de Puerto Rico (the Trustee ) established a trust (the Trust ) for investment purposes as part of the Plan. Fidelity Institutional Retirement Services Company is the Plan s record keeper (the Record Keeper ) and acts as an agent for the Trustee.

*(d) Investment Options*

Upon enrollment in the Plan, a participant may direct his or her contributions in 1% increments with at least 2% directed to each investment option selected. Investment options include the following:

| | | |
|---|---|---|
| 1) | FMC Technologies Stock Fund | Funds are invested in the common stock of FMC Technologies, Inc. |

**FMC PUERTO RICO SAVINGS AND INVESTMENT PLAN**

**Notes to Financial Statements**

**December 31, 2002 and 2001**

2) FMC Stock Fund Funds are invested in the common stock of FMC Corporation. Effective December 31, 2001, this Fund is no longer available as an investment option for future investments. As of June 30, 2003, this Fund will be terminated and the Trustee will liquidate the Fund and invest the proceeds in the Fidelity Retirement Government Money Market Portfolio.

3) Fidelity Managed Income Portfolio Funds are invested in investment contracts offered by insurance companies and other approved financial institutions. The selection of these contracts and administration of this fund is directed by the fund s investment manager. For the plan years ending December 31, 2002 and December 31, 2001, the effective annual yield was approximately 5.1% and 5.8%, respectively.

4) Clipper Fund Funds are invested in common stocks that are considered undervalued by the fund manager and in long-term bonds.

5) Mutual Qualified Fund (Z) Funds are invested primarily in common and preferred stocks that are considered undervalued by the fund manager.

6) Sequoia Fund Fund investments are concentrated in a relatively small number of mostly U.S. headquartered companies with long-term growth potential.

7) Fidelity Puritan Fund Funds are invested in high-yielding U.S. and foreign securities, including those in emerging markets.

8) Fidelity Magellan Fund Funds are primarily invested in common stocks of domestic and foreign companies.

9) Fidelity Blue Chip Growth Fund Funds are invested primarily in common stocks of well-known and established companies.

10) Fidelity Low-Priced Stock Fund Funds are heavily invested in undervalued stocks or out-of-favor stocks.

11) Fidelity Diversified International Fund Funds are invested primarily in stocks of companies located outside the U.S. that are included in the Morgan Stanley EAFE Index.

12) Fidelity Retirement Government Money Market Portfolio Funds are invested in short-term obligations of the U.S. Government or its agencies.

13) Fidelity U.S. Equity Index Pool Fund Funds are invested primarily in common stocks of the 500 companies that comprise the S&P 500.

14) PIMCO Total Return Fund Funds are invested primarily in U. S. government, corporate, mortgage and foreign bonds. The PIMCO Total Return Fund-Institutional Class changed to the PIMCO Total Return Fund-Administrative Class effective June 1, 2002.

**FMC PUERTO RICO SAVINGS AND INVESTMENT PLAN**

**Notes to Financial Statements**

**December 31, 2002 and 2001**

15) Morgan Stanley Institutional Fund Trust ( MSIFT ) Mid Cap Growth Portfolio Funds are invested primarily in equities of small to mid-sized companies that are growing rapidly and are expected to grow and perform well. The MSIFT Mid Cap Growth Portfolio changed to MSIFT Mid Cap Growth Portfolio-Administrative Class effective June 1, 2002.

16) Fidelity Capital & Income Fund Funds are invested in equity and debt securities, including defaulted securities, with emphasis on lower-quality debt securities.

17) Fidelity Freedom Funds a series of asset allocation funds: Freedom Income Fund, Freedom 2000 Fund, Freedom 2010 Fund, Freedom 2020 Fund, Freedom 2030 Fund and Freedom 2040 Fund. These target date funds are designed for investors who want a simple approach to investing for retirement by investing in a collection of other Fidelity mutual funds by targeting their retirement dates. The Freedom Income Fund, designed for those already in retirement, emphasizes bond and money market mutual funds.

Prior to December 31, 2001, all Company contributions were invested in the FMC Stock Fund and were credited to the respective accounts of the employees participating in the Plan. On December 31, 2001, the FMCTI Stock Fund was created as a result of the distribution of the Company s stock by FMC Corporation (Note 6). Effective January 1, 2002, Company contributions to the Plan are invested by the Trustee in the FMCTI Stock Fund and credited to the respective accounts of the employees participating in the Plan. While investments may generally be transferred among funds, amounts contributed by the Company to the FMCTI Stock Fund are not eligible for fund transfer.

Prior to February 26, 2001, participants could change their investment options and move their account balances within the funds as frequently as they chose except with respect to employee Basic Contributions to the FMC Stock Fund, where the value of the account could be moved once a year after a participant reached age 50, and Company contributions, which could not be moved to other funds. Effective February 26, 2001, participants were given the ability to move account balances with respect to employee Basic Contributions to and from the FMC Stock Fund at any time.

***(e) Vesting***

Participants are immediately vested in their elective contributions plus actual earnings thereon. Vesting in the Company s contributions and related earnings is based on years of service. A participant is 100 percent vested after five years of service.

***(f) Payment of Benefits***

Upon termination of service or attainment of age 59 $^{1}/2$, any participant may elect to immediately receive a lump sum distribution equal to the vested interest of his or her account. Participants whose accounts are valued at more than $5,000 may, upon termination, elect to defer their lump sum distribution or receive annual installments over not more than 20 years. If a participant is not fully vested in the Company s contributions to his or her account on the date of termination of his or her employment, the non-vested portion is forfeited.

*(g)* ***Expenses***

Certain administrative expenses of the Plan are paid by the Trustee out of the assets of the Plan and constitute a charge upon the respective investment funds or upon the individual participants

**FMC PUERTO RICO SAVINGS AND INVESTMENT PLAN**

**Notes to Financial Statements**

**December 31, 2002 and 2001**

accounts. Certain other Plan sponsor expenses may be paid by the Plan sponsor from the forfeitures balance.

***(h) Withdrawals and Loans***

The Plan allows participants to make hardship cash withdrawals (subject to income taxation and IRS penalties) of some or all of their vested account balances. Eligible participants may also receive money from the Plan in the form of loans. The minimum that may be borrowed is $1,000. The maximum that may be borrowed is the lesser of $50,000, as adjusted, or 50 percent of the participant s vested account balance. Loans are secured by the participant s vested account balance and must be repaid over not more than 60 months with interest at a reasonable rate as determined by the Plan administrator. At December 31, 2002, a loan of $3,128 was outstanding.

***(i) Plan Termination***

Although it has not expressed any intent to do so, the Company has the right under the Plan to discontinue its contributions at any time and to terminate the Plan subject to the provisions of the Plan and ERISA. In the event of Plan termination, participants will become 100 percent vested in their account balances.

***(j) Forfeited Accounts***

Forfeited accounts may be used to pay certain Plan administration expenses. Any balances remaining after payment may be used to reduce future employer contributions.

**(2) Summary of Significant Accounting Policies**

The following are the significant accounting policies followed by the Plan:

***(a) Basis of Accounting***

The Plan s financial statements are prepared on the accrual basis of accounting in accordance with accounting principles generally accepted in the United States of America.

***(b) Investment Transactions and Income Recognition***

Security transactions are recorded in the financial statements on a settlement-date basis, which does not differ materially from a trade-date basis. Dividends are recorded as earned on the record date. Interest is recorded as earned on the accrual basis.

***(c) Valuation of Investments***

Quoted or estimated market prices are used to value investments except for certain contracts, held at December 31, 2001, with banks and insurance companies, which guarantee repayment of principal with interest at a fixed or fixed minimum rate for a specified period of time. These contracts are valued at contract value, which approximates market value.

***(d) Use of Estimates***

The preparation of financial statements in conformity with generally accepted accounting principles requires the plan administrator to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and reported amounts of revenue and expenses during the reporting period. Actual results could differ from these estimates, but the plan administrator does

**FMC PUERTO RICO SAVINGS AND INVESTMENT PLAN**

**Notes to Financial Statements**

**December 31, 2002 and 2001**

not believe such differences will materially affect the Plan s financial position or results of operations.

***(e) Payment of Benefits***

Benefits are recorded when paid.

**(3) Investments**

Investments at fair value which represent 5% or more of the Plan s net assets available for benefits at December 31, 2002 and 2001, are separately identified below:

| | December 31, | |
|---|---|---|
| | 2002 | 2001 |
| FMC Stock Fund | $ 12,781 | $ 53,395 |
| FMC Technologies Stock Fund | 49,239 | 25,386 |
| Fidelity Diversified International Fund | 17,385 | |
| Fidelity Blue Chip Growth Fund | 5,239 | |

During 2002 and 2001, the Plan s investments (including investments bought, sold, and held during the year) appreciated (depreciated) in value as follows:

| | Year ended December 31, | |
|---|---|---|
| | 2002 | 2001 |
| FMC Stock Fund | $ (22,922) | $ 15,144 |
| FMC Technologies Stock Fund | 6,976 | |
| Clipper Fund | (29) | 84 |
| Mutual Qualified Fund (Z) | (424) | (26) |

| | | |
|---|---|---|
| Sequoia Fund | (38) | 112 |
| Fidelity Blue Chip Growth Fund | (1,275) | (484) |
| Fidelity Diversified International Fund | (2,289) | (81) |
| Fidelity Freedom 2030 Fund | (83) | |
| | $ (20,084) | $ 14,749 |

**(4) Non-Participant Directed Investments**

Non-participant directed investments are composed of forfeited non-vested balances that have not been allocated to participant accounts. These accounts, totaling $59 and $1,230 at December 31, 2002 and 2001, respectively, are included in the Fidelity Managed Income Portfolio.

Changes in the non-participant directed investments were as follows:

**FMC PUERTO RICO SAVINGS AND INVESTMENT PLAN**

**Notes to Financial Statements**

**December 31, 2002 and 2001**

| | 2002 | 2001 |
|---|---|---|
| Non-participant directed investments (beginning balance) | $ 1,230 | $ 1,367 |
| Dividend income | 17 | 66 |
| Non-vested forfeited accounts | | 563 |
| Forfeitures used to reduce Company contributions | | |
| Forfeitures used for Plan expenses | (1,188) | (766) |
| Non-participant directed investments at December 31 | $ 59 | $ 1,230 |

The net assets within the FMCTI stock fund relating to non-participant directed investments are $22,676 and $32,169 as of December 31, 2002 and 2001, respectively. The components of the changes in net assets relating to these investments are contributions for the year ended December 31, 2002 of $9,562, transfers to participant directed investments of $11,305, and $7,750 primarily related to net depreciation.

**(5) Income Taxes**

The Plan s administrator and the Plan s tax counsel believe that the Plan is designed and being operated in compliance with the applicable requirements of the Internal Revenue Code.

**(6) FMC Corporation s Reorganization**

The Company was a wholly owned subsidiary of FMC Corporation until it completed an initial public offering of 17% of its common stock on June 14, 2001. FMC Corporation distributed its remaining 83% ownership of the Company s stock to all FMC Corporation s stockholders in the form of a dividend on December 31, 2001. Each FMC Corporation stockholder of record as of December 12, 2001, received a dividend of approximately 1.72 shares of the Company s common stock for each share of FMC Corporation common stock. For participants with an interest in the FMC Stock Fund, the Company stock dividend was invested in the FMCTI Stock Fund.

As a result of the reorganization, effective May 1, 2001, FMC International AG, now known as FMC Technologies AG, a wholly owned subsidiary of the Company, became the successor-sponsor of the Plan.

**FMC PUERTO RICO SAVINGS AND INVESTMENT PLAN**

Schedule H, Line 4i Schedule of Assets (Held at End of Year)

December 31, 2002

| Identity of issuer, borrower, lessor or similar party | Description of investment including maturity date, rate of interest, collateral, par, or maturity value | Current value at December 31, 2002 |
|---|---|---|
| FMC Stock Fund (FMC Corporation Common Stock) | FMC Corporation Common Stock, approximately 468 shares | $ 12,781 |
| FMCTI Stock Fund (FMC Technologies, Inc. Common Stock) * participant directed | FMC Technologies, Inc. Common Stock, approximately 1,300 shares | 26,563 |
| FMCTI Stock Fund (FMC Technologies, Inc. Common Stock) * non-participant directed | FMC Technologies, Inc. Common Stock, approximately 1,110 shares | 22,676 |
| Fidelity Managed Income Portfolio * non-participant directed | Portfolio includes investment contracts offered by major insurance companies and other approved financial institutions | 59 |
| Clipper Fund | Stock Value Fund | 643 |
| Mutual Qualified Fund (Z) | Stock Long-term Growth Fund | 2,861 |
| Sequoia Fund | Stock Long-term Growth Fund | 3,973 |
| Fidelity Blue Chip Growth Fund * | Large Companies Stock Fund | 5,239 |
| Fidelity Diversified International Fund * | Growth Mutual Fund of Foreign Companies | 17,385 |
| Fidelity Retirement Government Money Market Portfolio * | Money Market Mutual Fund | 1,209 |
| Fidelity Freedom 2030 Fund * | Asset allocation series fund which primarily invests in other Fidelity mutual funds (stock, bond and money market) which provide moderate asset allocation with a target retirement date. | 1,319 |
| Participant loan receivable | Rate of interest 5.7% | 3,128 |
| Total assets held for investment purposes | | $ 97,836 |

* party-in-interest.

See accompanying independent auditors report.

EXHIBIT INDEX

| NUMBER IN EXHIBIT TABLE | DESCRIPTION |
|---|---|
| 23.1 | Consent of KPMG LLP |

11

rder-bottom:none;padding:0in 6.0pt 0in 6.0pt'>

AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

**718,067 (See Item 5)**

**12**

CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES

CERTAIN SHARES o

**13**

PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

**7.2% (See Item 5)**

**14**

TYPE OF REPORTING PERSON

**CO**

**SCHEDULE 13D**

**CUSIP No. 89376V100**

1 NAME OF REPORTING PERSONS

**TransMontaigne Holdings Inc.**

2 CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP

(a) o

(b) x

3 SEC USE ONLY

4 SOURCE OF FUNDS

**OO**

5 CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED

PURSUANT TO ITEM 2(d) or 2(e) o

6 CITIZENSHIP OR PLACE OF ORGANIZATION

**Delaware**

| | | |
|---|---|---|
| NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH | 7 | SOLE VOTING POWER<br>**-0-** |
| | 8 | SHARED VOTING POWER<br>**718,067** |
| | 9 | SOLE DISPOSITIVE POWER<br>**-0-** |
| | 10 | SHARED DISPOSITIVE POWER<br>**718,067** |

11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

**718,067 (See Item 5)**

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES

CERTAIN SHARES o

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

**7.2% (See Item 5)**

14 TYPE OF REPORTING PERSON

**CO**

**Item 1. Security and Issuer.**

The class of securities to which this statement relates is the common limited partner units (the Common Units ) of TransMontaigne Partners L.P., a Delaware limited partnership (the Issuer ). Notwithstanding the filing of this Schedule 13D, the Reporting Persons believe that the Common Units should be treated as non-voting securities based on the limited voting rights of the limited partners under the First Amended and Restated Agreement of Limited Partnership of the Issuer dated May 27, 2005 (the Partnership Agreement ). The principal executive offices of the Issuer are located at 1670 Broadway, Suite 3100, Denver, Colorado 80202.

As more fully described in Item 5 below, beginning on November 13, 2008, THI (as defined below) directly, and MSCGI (as defined below), TMG (as defined below), TransMontaigne Product Services Inc. and TransMontaigne Holdings L.L.C. indirectly through THI(as defined below), and MSSI (as defined below) had the right to convert certain subordinated units representing limited partner interests in the Issuer (the Subordinated Units ) into Common Units.

On November 13, 2008, THI directly, and MSCGI, TMG, TransMontaigne Product Services and TransMontaigne Holdings indirectly through THI, converted 718,067 Subordinated Units into Common Units and MSSI converted 112,500 Subordinated Units into Common Units.

**Item 2. Identity and Background.**

This Schedule 13D is being filed jointly on behalf of (i) Morgan Stanley, a Delaware corporation ( MS ), (ii) Morgan Stanley Capital Group Inc., a Delaware corporation ( MSCGI ), (iii) Morgan Stanley Strategic Investments, Inc., a Delaware corporation ( MSSI ), (iv) Morgan Stanley & Co. Incorporated, a Delaware corporation ( MS&Co. ), (v) TransMontaigne Inc., a Delaware Corporation ( TMG ), (vi) TransMontaigne Product Services Inc, a Delaware corporation, (vii) TransMontaigne Holdings L.L.C. , a Delaware limited liability company, and (viii) TransMontaigne Holdings Inc., a Delaware Corporation ( THI and, together with MS, MSCGI, MSSI, MS&Co., TMG, TransMontaigne Product Services, TransMontaigne Holdings and THI, the Reporting Persons ). The name, business address, present principal occupation or employment and citizenship of each director and executive officer of MS, MSCGI, MSSI and MS&Co. are set forth in Schedules A, B, C and D, respectively.

The address of the principal business office of MS, MSCGI, MSSI and MS&Co. is 1585 Broadway, New York, New York, 10036. The address of the principal business office of TMG, TransMontaigne Product Services, TransMontaigne Holdings and THI (together the TransMontaigne Companies ) is 1670 Broadway, Suite 3100, Denver, Colorado 80202.

MS is a global financial services firm that maintains leading market positions in each of its business segments Institutional Securities, Individual Investor Group, and Investment Management.

MSCGI is a wholly owned subsidiary of MS. MSCGI effects non-regulated transactions with various international clients in various international markets. MSCGI is a non-clearing member of NYMEX and executes transactions for its own account on such exchange.

MSSI and MS&Co. are wholly owned subsidiaries of MS. MS&Co. is a registered broker-dealer in the United States.

TMG is a holding company, that, through its wholly owned operating subsidiaries and affiliated entities, operates in the refined petroleum products, midstream, logistical services business and in the marketing and distribution of such products. TMG is a wholly owned subsidiary of MSCGI. TransMontaigne Product Services is a wholly owned subsidiary of TMG. TransMontaigne Product Services owns 60% of the equity in TransMontaigne Holdings; the other 40% of the equity is owned by TransMontaigne Services Inc., a wholly owned direct subsidiary of TMG. TransMontaigne Holdings is the 100% equity owner of THI.

During the last five years, none of the Reporting Persons, nor, to the knowledge of the Reporting Persons, any of the persons listed on Schedules A, B, C, D, E, F, G and H attached hereto, has been (1) convicted in a criminal proceeding (excluding traffic violations or similar misdemeanors) or (2) a party to a civil proceeding of a judicial or administrative body of competent jurisdiction and as a result of such proceeding was or is subject to a judgment, decree or final order enjoining future violations of, or prohibiting or mandating activities subject to, federal or state securities laws or finding any violation with respect to such laws, other than, in the case of clause (2), as described in Schedule I hereto.

**Item 3. Source and Amount of Funds or Other Consideration.**

As more fully described in Item 4 below, on May 27, 2005, MSSI (formerly MSDW Bondbook Ventures Inc.) acquired 450,000 Subordinated Units in a private placement. MSSI obtained funds for the purchase price through internally generated funds.

As more fully described in Item 4 below, on September 1, 2006, MSCGI indirectly acquired 2,872,266 Subordinated Units as part of its acquisition of TransMontaigne Inc.

**Item 4. Purpose of Transaction.**

On May 27, 2005, TMG indirectly through its direct and indirect subsidiaries acquired 2,872,266 Subordinated Units in a private placement. The purchase price for the purchase of the Subordinated Units was generated from internal funds at each such acquiring subsidiary. Following corporate reorganizations in December 2007, THI became the sole direct owner of such 2,872,266 Subordinated Units. The Subordinated Units may be deemed to be beneficially owned by each of the TransMontaigne Companies. In addition, on May 27, 2005 MSSI acquired 450,000 Subordinated Units in a private placement.

Effective September 1, 2006, MSCGI purchased all of the issued and outstanding capital stock of TransMontaigne Inc. TransMontaigne Inc. s indirect, wholly owned subsidiary, THI, beneficially owns 2,872,266 Subordinated Units and, as a result, MSCGI and its parent company, MS, are the indirect beneficial owners of such Subordinated Units.

Upon expiration of the subordination period, as described in the Issuer s Annual Report on Form 10-K for the year ended December 31, 2007 (the Subordination Period ), each outstanding Subordinated Unit will convert into one Common Unit. However, before the end of the Subordination Period, a portion of the Subordinated Units may convert into Common Units if certain financial tests (described below) are met. Based on information in the Issuer s Quarterly Report on Form 10-Q for the quarter ended September 30, 2008, the tests described in clause (1) below were met and, as a result, 25% of the Subordinated Units may be converted into Common Units beginning on November 13, 2008.

In accordance with the Partnership Agreement of the Issuer dated May 27, 2005, Subordinated Units may be converted as follows:

(1) 25% of the Subordinated Units may be converted on the second business day following the date of a cash distribution, if any, at the end of a quarter ending on or after June 30, 2008. A cash distribution will occur if:

distributions of available cash from operating surplus on each outstanding Common Unit, Subordinated Unit and general partner unit equaled or exceeded the minimum quarterly distribution for each of the three consecutive, non-overlapping four-quarter periods immediately preceding that date;

the adjusted operating surplus generated during each of the three consecutive, non-overlapping four-quarter periods immediately preceding that date equaled or exceeded the sum of the minimum quarterly distributions on all of the outstanding Common Units and Subordinated Units during those periods on a fully diluted basis and the general partner units during those periods; and there are no arrearages in payment of the minimum quarterly distribution on the Common Units.

(2) An additional 25% of the Subordinated Units may be converted on the second business day following the date of a cash distribution, if any, at the end of a quarter ending on or after June 30, 2009.

(3) An additional 25% of the Subordinated Units may be converted if at the end of a quarter ending on or after June 30, 2008:

distributions of available cash from operating surplus on each outstanding Common Unit, Subordinated Unit and general partner unit equaled or exceeded $2.00 (125% of the annualized minimum quarterly distribution) for each of the two consecutive, non-overlapping four-quarter periods immediately preceding that date;

the adjusted operating surplus generated during each of the two consecutive, non-overlapping four-quarter periods immediately preceding that date equaled or exceeded the sum of a distribution of $2.00 (125% of the annualized minimum quarterly distribution) on all of the outstanding Common Units and Subordinated Units on a fully diluted basis and the general partner units during those periods; and

there are no arrearages in payment of the minimum quarterly distribution on the Common Units.

(4) An additional 25% of the Subordinated Units may be converted if at the end of a quarter ending on or after June 30, 2009:

distributions of available cash from operating surplus on each outstanding Common Unit and Subordinated Unit and general partner unit equaled or exceeded $2.24 (140% of the annualized minimum quarterly distribution) for each of the two consecutive, non-overlapping four-quarter periods immediately preceding that date;

the adjusted operating surplus generated during each of the two consecutive, non-overlapping four-quarter periods immediately preceding that date equaled or exceeded the sum of a distribution of $2.24 (140% of the annualized minimum quarterly distribution) on all of the outstanding Common Units and Subordinated Units on a fully diluted basis and the general partner units during those periods; and

there are no arrearages in payment of the minimum quarterly distribution on the Common Units.

On November 7, 2008, the Issuer filed its Quarterly Report on Form 10-Q for the quarter ended September 30, 2008 and stated therein that the financial tests required for the conversion of 25% of the Subordinated Units had been met. The first date on which 25% of the Subordinated Units were convertible into Common Units was November 13, 2008. On November 13, 2008, THI directly, and MSCGI, TMG, TransMontaigne Product Services and TransMontaigne Holdings indirectly through THI, converted 718,067 Subordinated Units into Common Units and MSSI converted 112,500 Subordinated Units into Common Units.

As of the date of this Schedule 13D, the Reporting Persons do not have any current plans or proposals which relate to or would result in any of the matters specified in clauses (a) through (j) of Item 4 of Schedule 13D.

**Item 5. Interest in Securities of the Issuer.***

The following disclosure assumes there are 9,122,300 Common Units outstanding as of November 3, 2008, as set forth in the Issuer s Quarterly Report on Form 10-Q for the quarter ended September 30, 2008 and that 839,842 Common Units, in the aggregate, could be issued on conversion of the Subordinated Units by the Reporting Persons. All calculations of beneficial ownership and of the number of shares issuable upon the conversion or exercise of any securities are made as of November 7, 2008.

For the purposes of Rule 13d-3 promulgated under the Exchange Act, MS may be deemed to beneficially own 839,842 Common Units , or approximately 8.4% of the outstanding Common Units. MS is filing solely in its capacity as parent company of, and indirect beneficial owner of securities held by MSCGI (and the TransMontaigne Companies), MSSI and MS&Co.

For the purposes of Rule 13d-3 promulgated under the Exchange Act, each of MSCGI and each of the TransMontaigne Companies may be deemed to beneficially own 718,067 Common Units, or approximately 7.2% of the outstanding Common Units.

For the purposes of Rule 13d-3 promulgated under the Exchange Act, MSSI may be deemed to beneficially own 112,500 Common Units issuable upon conversion of Subordinated Units, or approximately 1.1% of the outstanding Common Units.

MS&Co. has voting and/or dispositive power over certain shares of Common Units held in accounts of certain of its clients and customers and, as a result, for the purposes of Rule 13d-3 promulgated under the Exchange Act, MS&Co. may be deemed to beneficially own up to 9,275 Common Units, or approximately 0.1% of the outstanding Common Units.

The Reporting Persons do not affirm the existence of a group and are filing this statement jointly pursuant to Rule 13d-1(k)(1) promulgated under the Exchange Act, provided that, as contemplated by Section 13d-1(k)(1)(ii), no Reporting Person shall be responsible for the completeness or accuracy of the information concerning the other persons making the filing, unless such Reporting Person knows or has reason to believe that such information is inaccurate.

By virtue of the relationship previously reported under Item 2 of this statement, (i) each of MS and MSCGI and each of the TransMontaigne Companies may be deemed to have shared voting and dispositive power with respect to 718,067 Common Units beneficially owned by THI; (ii) each of MS and MSSI may be deemed to have shared voting and dispositive power with respect to 112,500 Common Units beneficially owned by MSSI; and (iii) each of MS and MS&Co. may be deemed to have shared voting and/or dispositive power with respect to 9,275 Common Units beneficially owned by MS&Co.

Neither the filing of this Schedule 13D nor any of its contents shall be deemed to constitute an admission by each Reporting Person that it is the beneficial owner of any of the Common Units referred to herein for purposes of Section 13(d) of the Exchange Act, or for any other purpose, and such beneficial ownership is expressly disclaimed.

None of the Reporting Persons has effected any transactions in the Common Units during the past 60 days. None of the Reporting Persons is aware of any information that indicates that any other Reporting Person has effected any such transaction.

---

* In accordance with the Securities and Exchange Commission Release No. 34-39538 (January 12, 1998) (the Release ), this filing reflects the securities beneficially owned by certain operating units of Morgan Stanley and its subsidiaries and affiliates. This filing does not reflect securities, if any, beneficially owned by any operating units of Morgan Stanley and its subsidiaries and affiliates whose ownership of securities is disaggregated from these operating units in accordance with the Release.

By virtue of the relationships described in Item 2 of this statement, MS may be deemed to have the power to direct the receipt of distributions on the Common Units held by MSCGI, MSSI. MS&Co. and each of the TransMontaigne Companies and the proceeds from the sale of the Common Units.

**Item 6. Contracts, Arrangements, Understandings or Relationships with Respect to Securities of the Issuer.**

See response to Item 4.

**Item 7. Exhibits.**

| | |
|---|---|
| Exhibit 1 | Joint Filing Agreement dated November 17, 2008 between MS, MSCGI, MSSI and MS&Co, TMG, TransMontaigne Product Services, TransMontaigne Holdings and THI |

**SIGNATURE**

After reasonable inquiry and to the best of my knowledge and belief, the undersigned certifies that the information set forth in this statement is true, complete and correct.

Dated: November 17, 2008

MORGAN STANLEY

/s/ Dennine Bullard

Name: Dennine Bullard
Title: Executive Director, Authorized Signatory

MORGAN STANLEY CAPITAL GROUP INC.

/s/ Robert P. Kinney

Name: Robert P. Kinney
Title: Vice President

MORGAN STANLEY STRATEGIC INVESTMENTS, INC.

/s/ Edgar Sabounghi

Name: Edgar Sabounghi
Title: Vice President

MORGAN STANLEY & CO. INCORPORATED

/s/ Dennine Bullard

Name: Dennine Bullard
Title: Executive Director, Authorized Signatory

TRANSMONTAIGNE INC.

/s/ Randall J. Larson

Name: Randall J. Larson
Title: President & CEO

TRANSMONTAIGNE PRODUCT SERVICES INC.

/s/ Randall J. Larson

Name: Randall J. Larson
Title: President & CEO

TRANSMONTAIGNE HOLDINGS L.L.C

/s/ Randall J. Larson

Name: Randall J. Larson
Title: President & CEO

TRANSMONTAIGNE HOLDINGS INC.

/s/ Randall J. Larson

Name: Randall J. Larson
Title: President & CEO

**SCHEDULE A**

EXECUTIVE OFFICERS AND DIRECTORS

OF

MORGAN STANLEY

The names of the directors and the names and titles of the executive officers of Morgan Stanley ( MS ) and their principal occupations are set forth below. The business address of each of the directors or executive officers is that of MS at 1585 Broadway, New York, New York 10036. Unless otherwise indicated, each occupation set forth opposite an individual s name refers to MS and each individual is a United States citizen.

| Name | Title |
|---|---|
| *John J. Mack | Chairman of the Board and Chief Executive Officer |
| *Roy J. Bostock | Chairman of the Partnership for a Drug-Free America |
| *Erskine B. Bowles | President of the University of North Carolina |
| *Howard J. Davies[1] | Director, The London School of Economics and Political Science |
| *C. Robert Kidder | Chairman and Chief Executive Officer, 3Stone Advisors LLC |
| *Donald T. Nicolaisen | Director |
| *Charles H. Noski | Director |
| *Hutham S. Olayan | President, Chief Executive Officer and Director of Olayan America Corporation |
| *Charles E. Phillips, Jr. | President and Director of Oracle Corporation |
| *O. Griffith Sexton | Adjunct professor of finance at Columbia Business School |
| *Laura D Andrea Tyson | Professor of Economics and Business at the Walter A. Haas School of Business at the University of California, Berkeley |
| Walid A. Chammah | Co-President |
| Gary G. Lynch | Executive Vice President and Chief Legal Officer |
| Thomas R. Nides | Executive Vice President, Chief Administrative Officer and Secretary |
| James P. Gorman[2] | Co-President |
| Colm Kelleher[3] | Executive Vice President and Chief Financial Officer |

1 Citizenship England

2 Dual citizenship Australia and United States

3 Dual citizenship England and Ireland

* Director

**SCHEDULE B**

EXECUTIVE OFFICERS AND DIRECTORS

OF

MORGAN STANLEY CAPITAL GROUP INC.

The names of the directors and the names and titles of the executive officers of Morgan Stanley Capital Group Inc. ( MSCGI ) and their principal occupations are set forth below. The business address of each of the directors or executive officers is that of MSCGI at 1585 Broadway, New York, New York 10036. Unless otherwise indicated, each occupation set forth opposite an individual s name refers to MSCGI and each individual is a United States citizen.

| Name | Title |
|---|---|
| *John A. Shapiro | Chairman and President |
| Colin Bryce[1] | Vice President |
| Kenneth Carlino | Vice President |
| Benjamin Cross | Vice President |
| John Fusco | Vice President |
| Michael H. Drury | Vice President |
| Simon T.W. Greenshields[1] | Vice President |
| Deborah L. Hart | Vice President |
| Nancy A. King | Vice President |
| Robert P. Kinney | Vice President |

| | |
|---|---|
| Christopher Marmo | Vice President |
| *Stephen P. Mettler | Vice President |
| *Mary Lou Peters | Vice President |
| Ian Henry Franklin Potter[2] | Vice President |
| Robert Urgo | Treasurer |
| William F. McCoy | Secretary |
| Martin Mobley | Assistant Secretary |
| Edward J. Zabrocki | Assistant Secretary |

1 Citizenship England
2 Citizenship Canada
* Director

**SCHEDULE C**

EXECUTIVE OFFICERS AND DIRECTORS

OF

MORGAN STANLEY STRATEGIC INVESTMENTS, INC.

The names of the directors and the names and titles of the executive officers of Morgan Stanley Strategic Investments, Inc. ( MSSI ) and their principal occupations are set forth below. The business address of each of the directors or executive officers is that of MSSI at 1585 Broadway, New York, New York 10036. Unless otherwise indicated, each occupation set forth opposite an individual s name refers to MSSI and each individual is a United States citizen.

| Name | Title |
|---|---|
| Michael J. Petrick | President |
| David Bersh | Vice President |
| *Thomas E. Doster | Vice President |
| Louis A. Palladino, Jr. | Vice President |
| Scott N. Pecullan | Vice President |
| Bruce R. Sandberg | Vice President |
| *Edgar A. Sabounghi | Vice President |
| Alan P. Thomas | Vice President |
| Elliot Tannenbaum | Vice President |
| Charlene R. Herzer | Secretary |

| | |
|---|---|
| Margaret T. Dugan | Assistant Secretary |
| Susan M. Krause | Assistant Secretary |
| Anita Rios | Treasurer |
| Kevin Mooney | Assistant Treasurer |

* Director

**SCHEDULE D**

EXECUTIVE OFFICERS AND DIRECTORS

OF

MORGAN STANLEY & CO. INCORPORATED

The names of the directors and the names and titles of the executive officers of Morgan Stanley & Co. Incorporated ( MS&Co. ) and their principal occupations are set forth below. The business address of each of the directors or executive officers is that of MS&Co. at 1585 Broadway, New York, New York 10036. Unless otherwise indicated, each occupation set forth opposite an individual's name refers to MS&Co. and each individual is a United States citizen.

| Name | Title |
|---|---|
| *James P. Gorman | Chairman, President, & Chief Executive Officer |
| *Walid Al Chammah | Director |
| *Charles Chasin | Director |
| *Ellyn A. McColgan | Director |
| *Michael J. Petrick | Director |
| Fred J. Gonfiantini | Chief Financial Officer & Chief Operations Officer |
| John H. Faulkner | General Counsel and Secretary |
| David K. Wong | Treasurer |
| Jill W. Ostergaard | Chief Compliance Officer |
| Michelle B. Oroschakoff | Chief Compliance Officer |

| | |
|---|---|
| Joseph D  Auria | Controller |
| W. Gary Beeson | Assistant Secretary |
| Martin M. Cohen | Assistant Secretary |
| Jeanne E. Greeley | Assistant Secretary |
| Charlene R. Herzer | Assistant Secretary |
| Susan M. Krause | Assistant Secretary |
| Daniel B. Park | Assistant Treasurer |
| David S. Russo | Assistant Treasurer |

* Director

**SCHEDULE E**

EXECUTIVE OFFICERS AND DIRECTORS

OF

TRANSMONTAIGNE INC.

The names of the directors and the names and titles of the executive officers of TransMontaigne Inc. and their principal occupations are set forth below. The business address of each of the directors or executive officers is that of TransMontaigne at 1670 Broadway, Suite 3100, Denver, Colorado 80202. Unless otherwise indicated, each occupation set forth opposite an individual s name refers to TransMontaigne and each individual is a United States citizen.

| Name | Title |
|---|---|
| *Randall J. Larson | President & CEO |
| *Randall P. O Connor | Director |
| *Javed Ahmed | Director |
| *Robert P Kinney | Director |
| Gregory J. Pound | Executive Vice President |
| Chee Ooi | Executive Vice President |
| Erik B. Carlson | Executive Vice President & Secretary |
| Frederick W. Boutin | Executive Vice President & Treasurer |
| Rodney R. Hilt | Executive Vice President |
| Deborah A. Davis | Senior Vice President |

| | |
|---|---|
| James F. Dugan | Senior Vice President |
| Richard C. Eaton | Senior Vice President |
| Shawn L. Mongold | Vice President |
| Andrew C. McIntosh | Vice President |
| Robert P. DiFrancesco | Vice President |
| Dudley Tarlton | Vice President |
| Brian Cannon | Vice President |
| Michael Hammell | Vice President & Assistant Secretary |

* Director

**SCHEDULE F**

EXECUTIVE OFFICERS AND DIRECTORS

OF

TRANSMONTAIGNE PRODUCT SERVICES INC.

The names of the directors and the names and titles of the executive officers of TransMontaigne Product Services Inc. and their principal occupations are set forth below. The business address of each of the directors or executive officers is that of TransMontaigne Product Services at 1670 Broadway, Suite 3100, Denver, Colorado 80202. Unless otherwise indicated, each occupation set forth opposite an individual s name refers to TransMontaigne Product Services and each individual is a United States citizen.

| Name | Title |
| --- | --- |
| *Randall J. Larson | President & CEO |
| *Gregory J. Pound | Executive Vice President |
| *Chee Ooi | Executive Vice President |
| Erik B. Carlson | Executive Vice President & Secretary |
| Frederick W. Boutin | Executive Vice President & Treasurer |
| Rodney R. Hilt | Executive Vice President |
| Deborah A. Davis | Senior Vice President |
| James F. Dugan | Senior Vice President |
| Richard C. Eaton | Senior Vice President |
| Shawn L. Mongold | Vice President |

| | |
|---|---|
| Andrew C. McIntosh | Vice President |
| Robert P. DiFrancesco | Vice President |
| Dudley Tarlton | Vice President |
| Brian Cannon | Vice President |
| Michael Hammell | Vice President & Assistant Secretary |

* Director

**SCHEDULE G**

EXECUTIVE OFFICERS AND DIRECTORS

OF

TRANSMONTAIGNE HOLDINGS L.L.C.

The names of the directors and the names and titles of the executive officers of TransMontaigne Holdings L.L.C. and their principal occupations are set forth below. The business address of each of the directors or executive officers is that of TransMontaigne Holdings L.L.C. at 1670 Broadway, Suite 3100, Denver, Colorado 80202. Unless otherwise indicated, each occupation set forth opposite an individual s name refers to TransMontaigne Holdings L.L.C. and each individual is a United States citizen.

| Name | Title |
|---|---|
| *Randall J. Larson | President & CEO |
| Gregory J. Pound | Executive Vice President |
| Chee Ooi | Executive Vice President |
| Erik B. Carlson | Executive Vice President & Secretary |
| *Frederick W. Boutin | Executive Vice President & Treasurer |
| Rodney R. Hilt | Executive Vice President |
| Deborah A. Davis | Senior Vice President |
| Michael Hammell | Vice President & Assistant Secretary |

* Director

**SCHEDULE H**

EXECUTIVE OFFICERS AND DIRECTORS

OF

TRANSMONTAIGNE HOLDINGS INC.

The names of the directors and the names and titles of the executive officers of TransMontaigne Product Services Inc. and their principal occupations are set forth below. The business address of each of the directors or executive officers is that of TransMontaigne Holdings Inc. at 1670 Broadway, Suite 3100, Denver, Colorado 80202. Unless otherwise indicated, each occupation set forth opposite an individual s name refers to TransMontaigne Holdings Inc. and each individual is a United States citizen.

| Name | Title |
|---|---|
| *Randall J. Larson | President & CEO |
| *Randall P. O Connor | Director |
| *Javed Ahmed | Director |
| *Robert P Kinney | Director |
| *Gregory J. Pound | Executive Vice President |
| Chee Ooi | Executive Vice President |
| Erik B. Carlson | Executive Vice President & Secretary |
| Frederick W. Boutin | Executive Vice President & Treasurer |
| Rodney R. Hilt | Executive Vice President |
| Deborah A. Davis | Senior Vice President |

| | |
|---|---|
| Michael Hammell | Vice President & Assistant Secretary |

* Director

**SCHEDULE I**

Item 2 - Schedule of Civil Proceedings

Unless the context otherwise requires, the term Morgan Stanley means Morgan Stanley and its consolidated subsidiaries. On April 1, 2007, Morgan Stanley merged Morgan Stanley DW Inc. ( MSDWI ) into Morgan Stanley & Co. Incorporated ( MS&Co. ), and MS&Co., the surviving entity, became Morgan Stanley s principal U.S. broker-dealer.

(a) In November 2003, MSDWI consented, without admitting or denying the findings, to an entry of an order (the Order ) that resolved the SEC s and NASD s investigations into certain practices relating to MSDWI s offer and sale of certain mutual funds from January 1, 2000 to the date of the Order. Pursuant to the Order, MSDWI was ordered to (1) cease and desist from committing any violations and any future violations of Section 17(a)(2) of the Securities Act of 1933, as amended, and Rule 10b-10 under the Securities Exchange Act of 1934, as amended (the Exchange Act ), (2) distribute for the benefit of certain customers who purchased funds through MSDWI pursuant to marketing arrangements between MSDWI and certain mutual fund complexes the amount of $50 million and (3) make certain disclosures and take certain other actions with respect to proprietary mutual funds.

(b) In November 2004, Morgan Stanley reached a settlement with the SEC to resolve an informal accounting investigation by executing an offer of settlement and agreeing to entry of a cease-and-desist order. The SEC found that Morgan Stanley valued certain impaired aircraft in its aircraft leasing business in late 2001, late 2002 and early 2003, and certain bonds in its high-yield bond portfolio in late 2000, in a manner that did not comply with generally accepted accounting principles, and thus violated financial reporting, recordkeeping and internal control provisions of the federal securities laws. The resolution did not involve any restatement of past financial statements, any monetary penalty or any allegation of fraud.

(c) In December 2004, MS&Co. and MSDWI reached a settlement with the NYSE under which Morgan Stanley executed two stipulations of facts and consent to penalty. The first stipulation was with respect to Morgan Stanley s failure to comply with certain prospectus delivery requirements, operational deficiencies and other matters, and included a fine of $13 million. The second stipulation was with respect to employee defalcations, and included a fine of $6 million.

(d) In January 2005, the SEC announced a settlement with MS&Co. and Goldman Sachs & Co. resolving the SEC s investigation relating to initial public offering ( IPO ) allocation practices. The SEC filed a settled civil injunction action in the United States District Court for the District of Columbia against MS&Co. relating to the allocation of stock to institutional customers in IPOs underwritten during 1999 and 2000. Under the terms of the settlement, Morgan Stanley agreed, without admitting or denying the allegations, to the entry of a judgment enjoining it from violating Rule 101 of Regulation M and the payment of a $40 million civil penalty. The court approved the settlement on February 4, 2005. The complaint alleges that MS&Co. violated Rule 101 of Regulation M by attempting to induce certain customers who received allocations of IPOs to place purchase orders for additional shares in the aftermarket.

(e) In May 2006, MS&Co. reached a settlement with the SEC, NYSE and NASD relating to its production of email in the research analyst and IPO investigations from December 2000 through at least July 2005. The complaint alleges that Morgan Stanley did not timely produce emails in response to requests in those matters because it did not diligently search for back-up tapes containing responsive emails until 2005, and because it over-wrote back-up tapes potentially containing responsive email until at least December 2002. Without admitting or denying the allegations of the complaint, Morgan Stanley consented to (1) a permanent injunction barring future violations of §17(b) of the Exchange Act (which requires, among other things, that Morgan Stanley respond promptly to SEC subpoenas and requests) and the relevant regulations promulgated thereunder and (2) the payment of a $15 million civil penalty, $5 million of which will be paid to NASD and the NYSE.

(f) In May 2007, MS&Co. consented, without admitting or denying the findings, to a censure, the entry of an order (the Order ) that resolved the SEC s investigation into violations of MS&Co. s duty to obtain the best price possible for certain retail orders for over-the-counter securities processed by Morgan Stanley s computerized market-making system from October 24, 2001 through December 8, 2004. Pursuant to the Order, Morgan Stanley was ordered to (1) cease and desist from committing any violations and any future violations of Section 15(c)(1)(A) of the Exchange Act, which prohibits broker-dealers from using manipulative, deceptive or fraudulent devices or contrivances to effect securities transactions, (2) pay disgorgement of $5,949,222 and pre-judgment interest thereon of $507,978 and (3) pay a civil money penalty of $1.5 million. Morgan Stanley also agreed to retain an independent distribution consultant to develop and implement a distribution plan for the disgorgement ordered, and to retain an independent compliance consultant to conduct a comprehensive review and provide a report on its automated retail order handling practices.

(g) On September 27, 2007, the Financial Industry Regulatory Authority ( FINRA ) announced that the Company entered into a Letter of Acceptance, Waiver and Consent (the AWC ) to resolve charges filed by FINRA on December 19, 2006. In the AWC, FINRA found that, among other things, Morgan Stanley provided inaccurate information regarding the existence of pre-September 11, 2001 emails and failed to provide such emails to arbitration claimants and regulators in response to discovery obligations and regulatory inquiries, failed adequately to preserve books and records, and failed to establish and maintain systems and written procedures reasonably designed to preserve required records and to ensure that it conducted adequate searches in response to regulatory inquiries and discovery requests. The AWC also included findings that Morgan Stanley failed to provide arbitration claimants with updates to a supervisory manual when called for in discovery. FINRA found that Morgan Stanley violated Section 17(a) of the Securities Exchange Act of 1934, Rule 17a-4 thereunder, NASD Conduct Rules 2110, 3010 (a) and (b) and 3110, NASD Procedural Rule 8210 and Interpretative Material 10100 under the NASD Code of Arbitration Procedure. In the settlement, Morgan Stanley neither admitted nor denied these findings. The settlement established a $9.5 million fund for the benefit of potentially affected arbitration claimants to be administered by a third party at the expense of Morgan Stanley. In addition, Morgan Stanley was censured and agreed to pay a $3 million regulatory fine and to retain an independent consultant to review its procedures for complying with discovery requirements in arbitration proceedings relating to Morgan Stanley s retail brokerage operations.

(h) Starting in July 2003, Morgan Stanley received subpoenas and requests for information from various regulatory and governmental agencies, including the SEC, the NYSE and various states, in connection with industry-wide investigations of broker-dealers and mutual fund complexes relating to possible late trading and market timing of mutual funds. In December 2007, Morgan Stanley settled all claims with the SEC concerning late trading and market timing of mutual funds in the retail system over the period from January 2002 to August 2003. Under the terms of the settlement, Morgan Stanley will, among other things, be censured and pay a monetary fine.

In addition, MS&Co. and MSDWI have been involved in a number of civil proceedings which concern matters arising in connection with the conduct of its business. Certain of such proceedings have resulted in findings of violation of federal or state securities laws. Each of these proceedings was settled by MS&Co. and MSDWI consenting to the entry of an order without admitting or denying the allegations in the complaint. All of such proceedings are reported and summarized in the MS&Co. Form BD and the MSDWI Form BD filed with the SEC, which descriptions are hereby incorporated by reference.

**EXHIBIT INDEX**

| | |
|---|---|
| Exhibit 1 | Joint Filing Agreement dated November 17, 2008 between MS, MSCGI, MSSI and MS&Co, TMG, TransMontaigne Product Services, TransMontaigne Holdings and THI |