

To: Rob Fernandez

From: Levon Kazarian – Morgan Stanley

Date: May 25, 2001

Subject: Strawman Proposal Concerns

Dear Rob:

I am writing with respect to your request for comments regarding the Strawman Proposal for a Balanced Sanctions Program.

Morgan Stanley has a number of concerns about the penalty construct that must be addressed before it comments on the more specific issues raised by the Strawman Proposal. It is premature for NYISO to request comments on such specific questions before addressing fundamental concerns, including under what authority NYISO intends to implement the penalty provision and why it has determined penalties are necessary. After those questions are answered, NYISO must address why NYISO and not some other entity should impose the penalty, explain the penalty appeal process and NYISO's accountability for wrongly imposed penalties. The market impact of imposition of penalties should be considered as well. These are but a few examples of the type of foundational concerns that need to be discussed by market participants before NYISO moves the discussion to the more specific issue of what actions warrant punishment and the monetary amounts of penalty required. Morgan Stanley encourages NYISO to review these issues and delineate the framework for the penalty provision before moving forward with the Strawman Proposal.

Thank you,

Levon Kazarian