



in the State of Illinois and an Order of Prohibition against Morgan Keegan and RMK Select Funds against the offer and sale of securities in the State of Illinois and granting such other relief as may be authorized under the Act including but not limited to imposition of a monetary fine in the maximum amount pursuant to Section 11 of the Act, payable within ten (10) days of the entry of the Order.

### Introduction

Broker-Dealers, Investment Advisers, Investment Adviser Representatives and Investment Companies (Mutual Funds) have a duty to inform investors of all material information relevant to the mutual funds they are offering for sale. This includes informing investors of whether or not the mutual funds offered to them can be transferred by the investor to a different Broker-Dealer or Investment Adviser and whether fees or liquidation charges will be incurred by the investor. An investor may decide to switch Broker-Dealers or Investment Advisers because he or she is dissatisfied with the service, the fees are high, the investor moves, the firm closes a branch office, poor investment advice or many other reasons. Unless they are told otherwise, it is reasonable for investors to believe that if they transfer from a Broker-Dealer or Investment Adviser, they can take their funds with them without incurring charges or being forced to liquidate their funds before they had intended to do so.

Information to investors regarding whether or not their mutual funds can be taken by the investors to a new Broker-Dealer or Investment Adviser without penalties or charges should be communicated to investors prior to their purchasing the mutual funds. Broker Dealers and Investment Advisers must implement and maintain adequate training and sufficient supervision to ensure that their respective investment adviser representatives, registered representatives, employees and other agents are informing investors of the nature and degree of transferability of mutual funds sold by the Broker-Dealer and Investment Adviser especially when the firms sells mutual funds which are affiliated with the Broker-Dealer and/or Investment Adviser.

As outlined below Morgan Keegan and Company and RMK Select Funds were not adequately disclosing to investors transferability information. Additionally, Morgan Keegan and Company was not adequately training and supervising its investment adviser representatives, registered representatives, employees and agents to ensure that accurate information regarding the transferability of RMK Select Funds and any applicable fees was communicated to investors.

### Count I

1. Morgan Keegan & Company, Inc. is currently registered with the Illinois Securities Department as a Dealer and has made notification filings as

a Federally Covered Investment Adviser. Currently, Morgan Keegan & Company has 19 branch offices, 486 salespersons and 62 Investment Adviser Representatives reported or registered in Illinois.

2. Morgan Keegan & Company, Inc is a subsidiary of Regions Financial Corporation.
3. During the time period of January 1, 2000 to about December 2005 (the "Relevant Period") RMK Select Funds (also known as Regions Morgan Keegan Select Funds and formerly known as Regions Morgan Keegan Funds and as Morgan Keegan Funds) were mutual funds registered under the Federal Investment Company Act and affiliated with Morgan Keegan and Company as that term is defined by Section 2(a)(3) of the Federal Investment Company Act. Morgan Asset Management, Inc acts as the investment adviser for the RMK Select Funds.
4. RMK Select Funds has been registered or has made notification filings in Illinois since 1992. Its most recent Notification Filing (Form NF) was filed with the Illinois Securities Department on February 20, 2007.
5. During the Relevant Period, Morgan Keegan sold RMK Select Funds to Illinois resident purchasers and Morgan Keegan registered representatives and/or investment adviser representatives located in Illinois offered and sold RMK Select Funds to investors in Illinois and outside of Illinois.
6. RMK Select Funds prepared prospectuses and Statements of Additional Information for its mutual funds. During the relevant time period both the prospectuses and the Statements of Additional Information ("SAI") were changed to reflect new or modified information.
7. RMK Select Funds were generally held by clients of Morgan Keegan in accounts at Morgan Keegan.
8. RMK Select Funds during the relevant time period had to be held in accounts either: (1) directly with Regions Morgan Keegan Funds; (2) a transfer agent; (3) Morgan Keegan or (4) a Broker-Dealer which had a sales/servicing agreement with RMK Select Funds.
9. Investors who wanted to transfer in-kind their RMK Select Funds could only do so to one of the account types described above in Paragraph 7.

10. During the Relevant Period, Morgan Keegan investors who wished to transfer their RMK Select Funds were told by Morgan Keegan that they could not do so but rather must either liquidate their RMK Select Funds or maintain the RMK Select Funds at Morgan Keegan and transfer all other non-proprietary products.
11. Morgan Keegan and RMK Select Funds omitted to inform investors of material information that RMK Select Funds purchased through Morgan Keegan and held in Morgan Keegan accounts would be subject to limited transferability should the investor later decide to transfer his/her account from Morgan Keegan to another Broker-Dealer.
12. The transferability of securities in general and proprietary mutual funds specifically has been highlighted by the Securities and Exchange Commission (SEC), the National Association of Securities Dealers (NASD) and the New York Stock Exchange. For example, in a letter dated February 21, 1997, the NASD noted that investors had complained about the lack of portability of mutual fund shares and that the NASD through Rule 11870: "...recognizes that investors attach a great deal of importance to the portability of their transferable securities, and we believe that any unreasonable delay in transferring customer securities is unacceptable." Additionally the SEC in its Final Rule Release 33-7512, 34-39748, IC-23064 dated June 1, 1998 stated: "To the extent that restrictions continue to exist, however, the Commission believes that disclosure of the limits on portability may be of importance to a typical investor." More recently, the NASD Report of the Customer Account Transfer Task Force dated September 2006, noted that: "...customers often do not become aware of portability restriction until they try to transfer a product," ... The Task Force recommended that the securities industry and regulators: "Consider ways to minimize portability restrictions and enhance investor understanding of portability restrictions."
13. During the Relevant Time Period, Morgan Keegan failed to implement adequate training, compliance or marketing procedures to ensure that information regarding the transferability of RMK Select Funds was communicated by its investment adviser representatives, registered representatives, agents or employees to investors or potential investors of RMK Select Funds.
14. Information regarding the transferability of RMK Select Funds was material to investors. This information was particularly critical for those investors who had purchased Class B shares and who were subject to a Contingent Deferred Sales Charge period.

15. Knowing that RMK Select Funds were not transferable was critical to investors who wished to transfer their RMK Select Funds and were consequently subject to sales charges.
16. Morgan Keegan and its registered Investment Adviser Representatives had a fiduciary duty to investors and potential investors of RMK Funds to inform them of the limited transferability of RMK Select Funds.
17. Information regarding the transferability of RMK Select Funds was material information to investors and the omission of this information is a violation of the following sections of the Act:
  - 12.A. To offer or sell any security except in accordance with the provision of the Act;
  - 12.F. To engage in any transaction, practice or course of business in connection with the sale or purchase of securities which works or tends to work a fraud or deceit upon the purchaser or seller thereof; and
  - 12.G. To obtain money or property through the sale of securities by means of any untrue statement of material fact or any omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.
  - 12.I. To employ any device, scheme or artifice to defraud in connection with the sale or purchase of any security, directly or indirectly.
  - 12.J. When acting as federal covered investment adviser, by any means or instrumentality, directly or indirectly: (1) To employ any device, scheme, or artifice to defraud any client or prospective client; (2) To engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client; or (3) To engage in any act, practice, or course of business which is fraudulent, deceptive, or manipulative.
18. Section 11.E(2) of the Act provides, inter alia, that if the Secretary of State shall find that any person has violated subsections F, G, I or J of Section 12 of the Act, the Secretary of State may by written order prohibit the person from offering or selling any securities in this State.
19. Section 11.E(4) of the Act provides, inter alia, that if the Secretary of State, after finding that any provision of the Act has been violated, may impose a fine as provided by rule, regulation or order not to exceed \$10,000.00 for each violation of the Act.

20. By virtue of the foregoing, the Respondents are subject to a fine of up to \$10,000.00 per violation and an order which permanently prohibits the Respondents from offering or selling securities in the State of Illinois.

Count II

- 1-17 Paragraphs 1-17 of Count I are re-alleged and re-incorporated as Paragraphs 1-17 of this Count II.
18. Section 8.E.1(b) of the Act provides, inter alia, that subject to the provisions of subsection F of Section 11 of the Act, the registration of a dealer may be suspended or revoked if the Secretary of State finds that the dealer has engaged in any unethical practice in the offer or sale of securities or in any fraudulent business practice.
19. Section 8.E.1(e)(i) of the Act provides, inter alia, that subject to the provisions of subsection F of Section 11 of the Act, the registration of a dealer may be suspended or revoked if the Secretary of State finds that the dealer has failed reasonably to supervise the securities activities of any of its salespersons or other employees and the failure has permitted or facilitated a violation of Sections of the Act.
20. Section 8.E.1(e)(iv) of the Act provides, inter alia, that subject to the provisions of subsection F of Section 11 of the Act, the registration of a dealer may be suspended or revoked if the Secretary of State finds that the dealer has failed to maintain and enforce written procedures to supervise the types of business in which it engages and to supervise the activities of its salesperson that are reasonably designed to achieve compliance with applicable securities laws and regulations.
21. Section 8.E.1(g) of the Act provides, inter alia, that subject to the provisions of subsection F of Section 11 of the Act, the registration of a dealer may be suspended or revoked if the Secretary of State finds that the dealer has violated any provisions of the Act.
22. By virtue of the foregoing, Morgan Keegan is subject to the entry of an Order which revokes its dealer registration in the State of Illinois pursuant to the authority provided under Sections 8.E.1(b), (e)(i), e(iv) or (g) of the Act.


You are further notified that you are required pursuant to Section 130.1104 of the Rules and Regulations (14 Ill. Adm. Code 130) (the "Rules"), to file an answer, special appearance or other responsive pleading to the allegations outlined above within thirty days of the receipt of this notice. A failure

to file an answer, special appearance or other responsive pleading within the prescribed time shall be construed as an admission of the allegations contained in the Notice of Hearing.

Furthermore, you may be represented by legal counsel; may present evidence; may cross-examine witnesses and otherwise participate. A failure to so appear shall constitute default, unless any respondent has upon due notice moved for and obtained a continuance.

Delivery of notice to the designated representative of any Respondent constitutes service upon such Respondent.

Dated this 4<sup>th</sup> day of June, 2007.

  
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