

MORGAN STANLEY RESEARCH

TOBACCO: NO SURPRISE AS USSC DENIES REVIEW IN ENGLE AGAIN -
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Conclusion: The US Supreme Court's very much as expected denial of review (again) in the Florida Engle class action claim - announced earlier today - in no way alters our constructive assessment of tobacco litigation.

What's New: We have confirmed that the US Supreme Court earlier today denied the US tobacco industry defendants' request again for review in the Florida Engle class action lawsuit.

Implications: *First*, the Court's ruling was very much as expected. We would have been very surprised if the Court had initially granted review, and we would have been stunned if the Court granted review in response to this second request (almost never granted). *Second*, although the industry is extremely unlikely to admit as such, we believe that its USSC Engle tactic has been principally directed towards "running out the clock" in the lawsuit. In particular, we believe that the industry understandably wants to maintain maximum uncertainty amongst the plaintiff bar regarding the potential "ground rules" of individual claims up to and through the January 10, 2008 filing deadline (so as to discourage the filing of individual claims). *Third*, although the final hurdle to the current appeal process will be a formal determination by a Florida Court trial judge that all review of the original verdict is now complete, we do not believe - for reason number two above - that the industry will be in any great hurry to expedite the formal determination of appellate "finality." *Fourth*, once finality has been achieved: (i) Lorillard's \$921 million net worth requirement becomes irrelevant, and (ii) PM USA's \$1.3 billion Engle escrow deposit will transition from being an "other asset" to cash. *Finally*, in our view, the USSC's determination simply maintains the status quo in Engle (e.g., no class wide punitive damage award, no mechanism for a large-scale subsequent award, no class action on a going-forward basis, and significant remaining avenues for future appellate attack). We continue to expect the filing of up to 6,000 Engle progeny individual lawsuits.

END OF RESEARCH ABSTRACT