

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 20070089106-01**

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REGISTRATION & DISCLOSURE

TO: Department of Market Regulation
Financial Industry Regulatory Authority ("FINRA")

RE: Direct Edge ECN LLC, Respondent
Broker-Dealer
CRD No. 135981

Pursuant to FINRA Rule 9216 of the FINRA Code of Procedure, Direct Edge ECN LLC (the "firm") submits this Letter of Acceptance, Waiver and Consent ("AWC") for the purpose of proposing a settlement of the alleged rule violations described below. This AWC is submitted on the condition that, if accepted, FINRA will not bring any future actions against the firm alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. The firm hereby accepts and consents, without admitting or denying the findings, and solely for the purposes of this proceeding and any other proceeding brought by or on behalf of FINRA, or to which FINRA is a party, prior to a hearing and without an adjudication of any issue of law or fact, to the entry of the following findings by FINRA:

BACKGROUND

The firm has been a member of FINRA since September 22, 2005 and its registration remains in effect.

RELEVANT PRIOR DISCIPLINARY HISTORY

- On March 15, 2007, an AWC became final in which the firm was fined \$5,000 for violations of NASD Rule 6955.

SUMMARY

In connection with 20070089106, the staff of the Department of Market Regulation (the "staff") conducted the firm's 2007 Trading and Market Making ("TMMS") Examination and reviewed the items set forth on Exhibit 1, during the trade dates April 23 and 24, 2007, unless noted otherwise.

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In connection with 20080127184, the staff conducted the firm's 2008 TMMS Examination and reviewed the items set forth on Exhibit 2, during the trade dates March 5 and 6, 2008, unless noted otherwise.

FACTS AND VIOLATIVE CONDUCT

20070089106

1. The firm executed 63 short sale transactions and failed to report each of these transactions to NASD's Alternative Display Facility ("ADF") with a short sale modifier. These transactions represented approximately 39 percent of the sample of short sale transactions reported to the ADF on the trade date(s) reviewed in the TMMS Examination. The conduct described in this paragraph constitutes separate and distinct violations of NASD Rule 6130A.
2. During the review period, the firm transmitted to the Order Audit Trail System ("OATS") 22 reports that contained inaccurate, incomplete, or improperly formatted data. Specifically, the reports contained an inaccurate capacity. The conduct described in this paragraph constitutes separate and distinct violations of NASD Rule 6955(a).

20080127184

3. For the month of January, 2008, the firm made available a report on the covered orders in national market system securities that it received for execution from any person. This report included incorrect information as to the cumulative number of shares of covered orders executed at the receiving market center and the cumulative number of shares of covered orders executed at any other venue. The conduct described in this paragraph constitutes separate and distinct violations of SEC Rule 605 of Regulation NMS.

B. The firm also consents to the imposition of the following sanctions:

A censure and total fine of \$27,500 (consisting of \$5,000 for the trade reporting violations, \$12,500 for the OATS violations and \$10,000 for the SEC Rule 605 of Regulation NMS violations).

The firm agrees to pay the monetary sanctions upon notice that this AWC has been accepted and that such payment is due and payable. The firm has submitted an Election of Payment form showing the method by which it proposes to pay the fine imposed.

The firm specifically and voluntarily waives any right to claim that it is unable to pay, now or at any time hereafter, the monetary sanctions imposed in this matter.

The sanctions imposed herein shall be effective on a date set by FINRA staff.

II.

WAIVER OF PROCEDURAL RIGHTS

The firm specifically and voluntarily waives the following rights granted under FINRA's Code of Procedure:

- A. To have a Formal Complaint issued specifying the allegations against the firm;
- B. To be notified of the Formal Complaint and have the opportunity to answer the allegations in writing;
- C. To defend against the allegations in a disciplinary hearing before a hearing panel, to have a written record of the hearing made and to have a written decision issued; and
- D. To appeal any such decision to the National Adjudicatory Council ("NAC") and then to the U.S. Securities and Exchange Commission and a U.S. Court of Appeals.

Further, the firm specifically and voluntarily waives any right to claim bias or prejudice of the General Counsel, the NAC, or any member of the NAC, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including acceptance or rejection of this AWC.

The firm further specifically and voluntarily waives any right to claim that a person violated the ex parte prohibitions of FINRA Rule 9143 or the separation of functions prohibitions of FINRA Rule 9144, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including its acceptance or rejection.

III.

OTHER MATTERS

The firm understands that:

- A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by the NAC, a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs ("ODA"), pursuant to FINRA Rule 9216;
- B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against the firm; and

C. If accepted:

1. this AWC will become part of the firm's permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against the firm;
2. this AWC will be made available through FINRA's public disclosure program in response to public inquiries about the firm's disciplinary record;
3. FINRA may make a public announcement concerning this agreement and the subject matter thereof in accordance with FINRA Rule 8310; and
4. the firm may not take any action or make or permit to be made any public statement, including in regulatory filings or otherwise, denying, directly or indirectly, any finding in this AWC or create the impression that the AWC is without factual basis. The firm may not take any position in any proceeding brought by or on behalf of FINRA, or to which FINRA is a party, that is inconsistent with any part of this AWC. Nothing in this provision affects the firm's right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.

- D. The firm may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. The firm understands that it may not deny the charges or make any statement that is inconsistent with the AWC in this Statement. This Statement does not constitute factual or legal findings by FINRA, nor does it reflect the views of FINRA or its staff.

The undersigned, on behalf of the firm, certifies that a person duly authorized to act on its behalf has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; that it has agreed to its provisions voluntarily; and that no offer, threat, inducement, or promise of any kind, other than the terms set forth herein and the prospect of avoiding the issuance of a Complaint, has been made to induce the firm to submit it.

10.29.09
Date

Respondent
Direct Edge ECN LLC

By: [Signature]

Print Name: Ramiro Benmudez

Title: CHIEF COMPLIANCE OFFICER

Reviewed by:

[Signature]
Attorney Name
Counsel for Respondent

Firm Name: DIRECT EDGE ECN LLC

Address: 545 WASHINGTON BLVD, JERSEY CITY, NJ 07310

Telephone number: 201.942.8239

Accepted by FINRA:

12/4/09
Date

Signed on behalf of the
Director of ODA, by delegated authority

[Signature]
Thomas R. Gira
Executive Vice President
Department of Market Regulation

2007 Exam Samples
Direct Edge ECN LLC
Exam No.: 20070089106

<u>Sample Size:</u>	<u>Sample Description:</u>	<u>Sample Source/Period:</u>
52	Customer and proprietary sales, reviewed for compliance with SEC Rule 200(g) long/short/exempt sale recording requirements.	From trade dates April 23 – April 24, 2007
N/A	Customer and proprietary short sales, reviewed for compliance with SEC Rule 203(b) security location requirements.	From trade dates April 23 – April 24, 2007
0	Customer and proprietary sales reported to a TRF or OTCRF, for compliance with NASD Rules 6130, 4632 and 6620 sale indicator reporting requirements.	From trade dates April 23 – April 24, 2007
26	Customer and proprietary sales reported to the ADF/TRACS, for compliance with NASD Rule 4632A sale indicator reporting requirements.	From trade dates April 23 – April 24, 2007
14	Short sales in Nasdaq Global Market securities executed otherwise than on an exchange, for compliance with NASD Rule 5100 bid test requirements.	From trade dates April 23 – April 24, 2007
5	Short sales in exchange-listed securities executed otherwise than on an exchange, for compliance with SEC Rule 10a-1 tick test requirements.	From trade dates April 23 – April 24, 2007
14	Customer and proprietary sales entered into the Nasdaq Exchange execution systems, for compliance with Nasdaq Rule 4755 long/short/exempt sale indicator entry requirements.	From trade dates April 23 – April 24, 2007
25	Cancellations of trades reported to a TRF or OTCRF, for compliance with NASD Rules 4632(g), 6420(f), 6620(f) and 6130(f) trade report cancellation requirements.	From trade dates April 23 – April 24, 2007
N/A	Cancellations of trades reported to ADF/TRACS, for compliance with NASD Rule 4632A(l) trade report cancellation requirements.	From trade dates April 23 – April 24, 2007
N/A	Limit and market orders executed as principal, for compliance with the order protection and best execution requirements of NASD Rules 2110, IM-2110-2, 2111, 6541 and 2320, and Nasdaq Rules 2110, IM-2110-2, 2111 and 2320	From trade dates April 23 – April 24, 2007
N/A	Limit orders for NMS stocks in which the member acts as an exchange or OTC market maker, for compliance with the display requirements of SEC Rule 604, 604 and Nasdaq Rule 3390.	From trade dates April 23 – April 24, 2007

**2007 Exam Samples
Direct Edge ECN LLC
Exam No.: 20070089106**

<u>Sample Size:</u>	<u>Sample Description:</u>	<u>Sample Source/Period:</u>
N/A	Market orders with "not held" terms or from institutional customers, for compliance with NASD Rule 2320 and Nasdaq Rule 2320 best execution requirements.	From trade dates April 23 – April 24, 2007
N/A	Market orders executed as principal, for compliance with NASD Rule 2320 and Nasdaq Rule 2320 best execution requirements.	From trade dates April 23 – April 24, 2007
N/A	Order memoranda for net trades effected by non-institutional and institutional customers, for compliance with NASD Rule 2441 documentation requirements.	From trade dates April 23 – April 24, 2007
N/A	Net trading agreements with institutional customers, for compliance with NASD Rule 2441 documentation requirements.	From trade dates April 23 – April 24, 2007
N/A	Principal and riskless principal trade executions effected otherwise than on an exchange for limit or market orders, for compliance with NASD Rules 4632, 6420, 6620 and 6130 requirements for TRF and OTCRF reporting.	From trade dates April 23 – April 24, 2007
N/A	Principal and riskless principal trade executions effected otherwise than on an exchange for limit or market orders, for compliance with NASD Rule 4632A requirements for ADF/TRACS reporting.	From trade dates April 23 – April 24, 2007
N/A	NASD Market Surveillance breaks for principal and riskless principal trades, for compliance with NASD Rules 4632, 6420, 6620, 6130 and 4632A requirements for TRF, OTCRF and ADF/TRACS reporting.	From trade dates April 23 – April 24, 2007
N/A	Trade executions effected otherwise than on an exchange for orders in Nasdaq-listed or exchange listed securities, received from customers with accounts subject to a soft dollar agreement, for compliance with the SEC '34 Act section 28(e) safe harbor which limits the accrual of soft dollar credits for riskless principal transactions to those reporting in compliance with NASD Rules 4632 and 6420.	From trade dates April 23 – April 24, 2007
N/A	Open limit orders to buy and/or open stop orders to sell securities that traded ex-dividend, for compliance with NASD Rule 3220 and Nasdaq Rule 4761.	From trade dates April 23 – April 24, 2007
N/A	Trades reported to a TRF or OTCRF with a .PRP modifier, for compliance with NASD Rules 4632, 6420, 6620 and 2320.	From trade dates April 23 – April 24, 2007
N/A	Trades reported to ADF/TRACS with a .PRP modifier, for compliance with NASD Rule 4632A.	From trade dates April 23 – April 24, 2007

**2007 Exam Samples
Direct Edge ECN LLC
Exam No.: 20070089106**

<u>Sample Size:</u>	<u>Sample Description:</u>	<u>Sample Source/Period:</u>
25	Orders for NMS stocks in which the firm acts as a market center, for compliance with SEC Rule 605 order classification requirements.	From trade dates April 23 – April 24, 2007
27	Orders for NMS stocks in which the firm acts as a market center, for compliance with SEC Rule 605 order classification requirements.	Orders underlying the datasets reviewed for April 23- 24, 2007.
4	Datasets published for on the monthly order execution report, for compliance with SEC Rule 605 requirement to publish accurate data. (A "dataset" is all required statistical data for a single order category, with each category representing a single unique combination of a security, order type and order size, as described in Rule 605.)	Report published for March 2007.
N/A	Quarterly order routing report, for compliance with SEC Rule 606 requirements.	N/A
N/A	Customer orders in OTC equity securities, for compliance with NASD Rules 2320(g) and 3110(b) requirements to ascertain and document the best interdealer market for transactions in such securities.	From trade dates April 23 – April 24, 2007
50	Orders in securities required to be submitted to OATS, for compliance with NASD Rules 6954 and 6955, and Nasdaq Rules 6954 and 6955 requirement to submit OATS information.	From trade dates April 23 – April 24, 2007
N/A	ADF orders and/or quotes which were accessed by others, for compliance with NASD Rule 4300A requirements to submit Order and Order Response reports.	From trade dates April 23 – April 24, 2007
257	Order/Trade records prepared and maintained in connection with the above samples, for general compliance with requirements of NASD Rule 3110 and SEC Rules 17a-3 and 17a-4.	From trade dates April 23 – April 24, 2007
241	Trades reported to a TRF, OTCRF or ADF/TRACS in connection with the above samples, for general compliance with requirements of NASD Trade Reporting and ADF rules.	From trade dates April 23 – April 24, 2007
N/A	Customer confirmations prepared and maintained in connection with the above samples, for compliance with SEC Rule 10b-10 disclosure requirements.	From trade dates April 23 – April 24, 2007
4	CRD registration records for persons conducting and/or supervising the member's trading and market making activities, for compliance with NASD Rule Series 1020, 1030 and 1040, and Nasdaq Rule Series 1020, 1030 and 1040.	List of trading personnel for April 2007 and supervisory personnel for April 2007.

**2007 Exam Samples
Direct Edge ECN LLC
Exam No.: 20070089106**

<u>Sample Size:</u>	<u>Sample Description:</u>	<u>Sample Source/Period:</u>
All, as provided by the member.	The member's supervisory system, written supervisory procedures ("WSPs") and documents evidencing the implementation of the WSPs, for compliance with NASD Rule 3010 requirements to establish an implement a system that is reasonably designed to prevent and detect violations of applicable securities rules.	WSPs provided by the member as those in effect during April 2007, and documentation of supervisory reviews conducted for April 2007.
All, as provided by the member.	The member's "Regular & Rigorous" review procedures (for assessing the execution quality of orders sent to other trading centers and/or internalized, for compliance with NASD Rules 2320 and 3010.	Procedures provided by the member as those in effect during April 2007.
N/A	Trades reported by the ATS/ECN to a TRF, OTCRF or ADF/TRACS in connection with the above samples, for compliance with requirements of NASD Rules 6130(c)(5) and/or 6130A(b)(5).	April 2007
N/A	Trading halts declared during the on-site portion of the examination, for which NASD staff observed the operation of the ATS.	April 2007

Exhibit # 2

**2008 Exam Samples
Direct Edge ECN LLC
Exam No.: 20080127184**

<u>Sample Size:</u>	<u>Sample Description:</u>	<u>Sample Source/Period:</u>
30	Subscriber sell orders, reviewed for compliance with SEC Rule 200(g) long/short sale recording requirements.	From trade dates March 5 and 6, 2008.
0	Subscriber short sales, reviewed for compliance with SEC Rule 203(b) security location requirements.	From trade dates March 5 and 6, 2008.
17	Subscriber sales reported to a TRF or OTCRF, for compliance with NASD Rules 6130, 4632 and 6620 sale indicator reporting requirements.	From trade dates March 5 and 6, 2008.
12	Subscriber sales reported to the ADF/TRACS, for compliance with NASD Rule 4632A sale indicator reporting requirements.	From trade dates March 5 and 6, 2008.
0	Subscriber sell orders entered into the Nasdaq Exchange execution systems, for compliance with Nasdaq Rule 4755 long/short sale indicator entry requirements.	From trade dates March 5 and 6, 2008.
0	Cancellations of trades reported to a TRF or OTCRF, for compliance with NASD Rules 4632(g), 6420(f), 6620(f) and 6130(f) trade report cancellation requirements.	From trade dates March 5 and 6, 2008.
N/A	Limit and market orders executed as principal, for compliance with the order protection and best execution requirements of NASD Rules 2110, IM-2110-2, 2111, 6541 and 2320, and Nasdaq Rules 2110, IM-2110-2, 2111 and 2320	From trade dates March 5 and 6, 2008.
50	Limit orders for NMS stocks in which the member acts as an exchange or OTC market maker, for compliance with the display requirements of SEC Rule 604, 604 and Nasdaq Rule 3390.	From trade dates March 5 and 6, 2008.

**2008 Exam Samples
Direct Edge ECN LLC
Exam No.: 20080127184**

<u>Sample Size:</u>	<u>Sample Description:</u>	<u>Sample Source/Period:</u>
N/A	Market orders with "not held" terms or from institutional customers, for compliance with NASD Rule 2320 and Nasdaq Rule 2320 best execution requirements.	From trade dates March 5 and 6, 2008.
N/A	Market orders executed as principal, for compliance with NASD Rule 2320 and Nasdaq Rule 2320 best execution requirements.	From trade dates March 5 and 6, 2008.
N/A	Order memoranda for net trades effected by non-institutional and institutional customers, for compliance with NASD Rule 2441 documentation requirements.	From trade dates March 5 and 6, 2008.
N/A	Net trading agreements with institutional customers, for compliance with NASD Rule 2441 documentation requirements.	From trade dates March 5 and 6, 2008.
N/A	Principal and riskless principal trade executions effected otherwise than on an exchange for limit or market orders, for compliance with NASD Rules 4632, 6420, 6620 and 6130 requirements for TRF and OTCRF reporting.	From trade dates March 5 and 6, 2008.
N/A	Principal and riskless principal trade executions effected otherwise than on an exchange for limit or market orders, for compliance with NASD Rule 4632A requirements for ADF/TRACS reporting.	From trade dates March 5 and 6, 2008.
N/A	Trade executions effected otherwise than on an exchange for orders in Nasdaq-listed or exchange listed securities, received from customers with accounts subject to a soft dollar agreement, for compliance with the SEC '34 Act section 28(e) safe harbor which limits the accrual of soft dollar credits for riskless principal transactions to those reporting in compliance with NASD Rules 4632 and 6420.	From trade dates March 5 and 6, 2008.
N/A	Open limit orders to buy and/or open stop orders to sell securities that traded ex-dividend, for compliance with NASD Rule 3220 and Nasdaq Rule 4761.	For ex-dividend dates March 5 and 6, 2008.

**2008 Exam Samples
Direct Edge ECN LLC
Exam No.: 20080127184**

<u>Sample Size:</u>	<u>Sample Description:</u>	<u>Sample Source/Period:</u>
0	Trades reported to a TRF or OTCRF with a .PRP modifier, for compliance with NASD Rules 4632, 6420, 6620 and 2320.	From trade dates March 5 and 6, 2008.
25	Orders for NMS stocks in which the firm acts as a market center, for compliance with SEC Rule 605 order classification requirements.	From trade dates March 3 and 4, 2008.
4 (28 orders)	Datasets published for on the monthly order execution report, for compliance with SEC Rule 605 requirement to publish accurate data. (A "dataset" is all required statistical data for a single order category, with each category representing a single unique combination of a security, order type and order size, as described in Rule 605.)	Firm's monthly order execution report from January 2008.
N/A	Quarterly order routing report, for compliance with SEC Rule 606 requirements.	N/A
0	Customer orders in OTC equity securities, for compliance with NASD Rules 2320(g) and 3110(b) requirements to ascertain and document the best interdealer market for transactions in such securities.	From trade dates March 5 and 6, 2008.
50	Orders in securities required to be submitted to OATS, for compliance with NASD Rules 6954 and 6955, and Nasdaq Rules 6954 and 6955 requirement to submit OATS information.	From trade dates March 3 to 6, 2008.
168	Order/Trade records prepared and maintained in connection with the above samples, for general compliance with requirements of NASD Rule 3110 and SEC Rules 17a-3 and 17a-4.	From trade dates March 3 to 6, 2008 and various trade dates in January 2008.
109	Trades reported to a TRF, OTCRF or ADF/TRACS in connection with the above samples, for general compliance with requirements of NASD Trade Reporting and ADF rules.	From trade dates March 5 and 6, 2008.

Exhibit # 2

**2008 Exam Samples
Direct Edge ECN LLC
Exam No.: 20080127184**

<u>Sample Size:</u>	<u>Sample Description:</u>	<u>Sample Source/Period:</u>
0	Customer confirmations prepared and maintained in connection with the above samples, for compliance with SEC Rule 10b-10 disclosure requirements.	From trade dates March 5 and 6, 2008.
9	CRD registration records for persons conducting and/or supervising the member's trading and market making activities, for compliance with NASD Rule Series 1020, 1030 and 1040, and Nasdaq Rule Series 1020, 1030 and 1040.	List of trading personnel for March 2008.
All, as provided by the member	The member's supervisory system, written supervisory procedures ("WSPs") and documents evidencing the implementation of the WSPs, for compliance with NASD Rule 3010 requirements to establish an implement a system that is reasonably designed to prevent and detect violations of applicable securities rules.	WSPs provided by the member as those in effect during March 2008, and documentation of supervisory reviews conducted for March 2008.
N/A	The member's "Regular & Rigorous" review procedures (for assessing the execution quality of orders sent to other trading centers and/or internalized, for compliance with NASD Rules 2320 and 3010.	N/A