

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 20080125413-01**

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 FINRA's 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 became a member of FINRA on September 22, 2005. The firm's registration remains in effect.

RELEVANT DISCIPLINARY HISTORY

The firm understands that its disciplinary history may be a factor that will be considered in deciding whether to accept this AWC.

On March 15, 2007, FINRA accepted an AWC in which the firm was fined \$5,000 for violations of NASD Rule 6955(a).

On December 7, 2009, FINRA accepted an AWC in which the firm was censured and fined \$27,500 for violations of NASD Rules 6130A and 6955(a) and SEC Rule 605.

SUMMARY

In connection with 20080125413, the staff reviewed the firm's compliance with OATS reporting requirements during the review period October 1 through December 31, 2007.

In connection with 20080127624, the staff reviewed the firm's compliance with OATS reporting requirements during the review period May 1 through August 31, 2007.

In connection with 20090171463, the staff reviewed the firm's compliance with SEC Rule 605 during the review period November 2008 through January 2009.

FACTS AND VIOLATIVE CONDUCT

20080125413

1. The firm transmitted to OATS 313,905 Reportable Order Events ("ROEs") that were rejected by OATS for context or syntax errors and were repairable. The firm failed to repair 180,557 of these rejected ROEs during the review period, representing 58 percent of all rejected repairable ROEs. As a result of the firm's failure to repair these ROEs, the firm failed to transmit 180,557 ROEs to OATS during the review period. The firm also resubmitted 20,764 rejected ROEs that were previously rejected without marking these ROEs with the Rejected ROE Resubmit Flag "Y". The conduct described in this paragraph constitutes separate and distinct violations of NASD Rule 6955(a).

20080127624

2. The firm: (a) failed to timely report to OATS 36,558,879 ROEs; (b) transmitted to OATS 79 Execution Reports that the OATS system was unable to link to the related trade reports in an NASD/NASDAQ trade reporting system due to inaccurate, missing, or improperly formatted data in the Execution Reports; (c) transmitted to OATS 1,671 Route or Combined Order/Route Reports that the OATS system was unable to link to the related order routed to Nasdaq due to inaccurate, incomplete or improperly formatted data; (d) transmitted to OATS 73 Route Reports that the OATS system was unable to link to the corresponding new order transmitted by the destination member firm due to inaccurate, incomplete or improperly formatted data; and (e) transmitted to OATS 936 New Order Reports and related subsequent reports where the timestamp for the related subsequent report occurred prior to the receipt of the order which caused the OATS system to be unable to create an accurate, time-sequenced record from the receipt of the order through its resolution. The foregoing violations represent 8.4 percent of all

ROEs the firm submitted during the review period. The conduct described in the foregoing paragraphs constitutes separate and distinct violations of NASD Rule 6955(a).

20090171463

3. For the months of November 2008 through January 2009, the firm made available reports on the covered orders in national market system securities that it received for execution from any person. These reports included incorrect information as to the Number of Canceled Shares, Number of Away Executed Shares, Number of Shares from 0-9 seconds, Average Realized Spread, Average Effective Spread, Outside-the-Quote Shares, Average Amount and Time, Price Improved Shares and Average Amount, At-the-Quote Shares and Average Time, and voided order executions. 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.
- A fine of \$37,500 (consisting of the following: 20080125413: a \$7,500 fine for violations of NASD Rule 6955(a); 20080127624: a \$17,500 fine for violations of NASD Rule 6955(a); and 20090171463: a \$12,500 fine for violations of SEC Rule 605).

The firm agrees to pay the monetary sanction(s) upon notice that this AWC has been accepted and that such payment(s) are due and payable. It 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 sanction(s) imposed in this matter.

The sanctions imposed herein shall be effective on a date set by FINRA staff. Pursuant to FINRA Rule 8313(e), a bar or expulsion shall become effective upon approval or acceptance of this AWC.

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 Complaint issued specifying the allegations against the firm;

- B. To be notified of the 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 prejudgment 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 8313; 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 the AWC's 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.

7/26/10
Date

Respondent
Direct Edge ECN LLC

By: Eric W. Hess

Name: Eric W. Hess

Title: General Counsel & Secretary

Reviewed by:

Eric W. Hess
Attorney Name
Counsel for Respondent

Accepted by FINRA:

8/24/10
Date

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

Thomas R. Gira
Thomas R. Gira
Executive Vice President
Department of Market Regulation