

FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 20080132221-01

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

RE: ITG Inc., Respondent
Broker-Dealer
CRD No. 29299

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, ITG Inc. (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 January 8, 1992, and its registration remains in effect.

RELEVANT DISCIPLINARY HISTORY

On November 10, 2008, FINRA accepted an AWC from the firm that imposed sanctions of a censure and a \$15,000 fine for violations of SEC Rule 203(b)(1) of Regulation SHO.

SUMMARY

In connection with 20080132221, the Short Sales Staff of FINRA's Department of Market Regulation reviewed the firm's compliance with SEC Rules under Regulation SHO during the period August 17, 2007 through October 26, 2007 (the "2007 Short Sales Review Period").

In connection with 20090170079, the Trading and Market Making Surveillance (“TMMS”) Staff of FINRA’s Department of Market Regulation reviewed the items set forth on Exhibit A, which is attached and incorporated by reference, primarily for trade dates May 27 and 28, 2009 (the “2009 TMMS Exam”), unless otherwise noted.

In connection with 20090178252, the OTC Compliance Staff of FINRA’s Department of Market Regulation reviewed the firm’s compliance with NASD Rule 3340 during the period January 1, 2008 through June 30, 2008 (the “OTC Compliance Review Period”).

In connection with 20100224192, the Short Sales Staff of FINRA’s Department of Market Regulation reviewed the firm’s compliance with SEC and FINRA Rules applicable to short sale transactions during the period September 8, 2008 through November 21, 2009 (the “2008/2009 Short Sales Review Period”).

FACTS AND VIOLATIVE CONDUCT

20080132221

1. During the 2007 Short Sales Review Period, the firm had a fail-to-deliver position at a registered clearing agency in 24 threshold securities for 13 consecutive settlement days and failed to immediately thereafter close out the fail-to-deliver position by purchasing securities of like kind and quantity. The securities and relevant time periods are identified on Exhibit B. The conduct described in this paragraph constitutes separate and distinct violations of SEC Rule 203(b)(3) of Regulation SHO.
2. During the 2007 Short Sales Review Period, the firm had a fail-to-deliver position at a registered clearing agency in Interoil Corp. (“IOC”), a threshold security, for 13 consecutive settlement days beginning September 10, 2007, and, without closing out the fail-to-deliver position by purchasing securities of like kind and quantity, it failed to borrow the security or enter into a *bona fide* arrangement to borrow the security before executing 24 short sales in IOC. The conduct described in this paragraph constitutes separate and distinct violations of SEC Rule 203(b)(3) of Regulation SHO.
3. The firm’s supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to certain applicable securities laws and regulations, and/or the Rules of FINRA. At a minimum, adequate written supervisory procedures addressing quality of markets topics should describe the following:
 - (a) specific identification of the individual(s) responsible for supervision;
 - (b) the supervisory steps and reviews to be taken by the appropriate supervisor;
 - (c) the frequency of such reviews; and
 - (d) how such reviews shall be documented.

The firm’s written supervisory procedures failed to provide for one or more of the four above-cited minimum requirements for adequate written supervisory procedures, in the following subject areas: SEC Rule 200(g) of Regulation SHO [(b)]; SEC Rule 203(a) of

Regulation SHO [(a), (b), (c), and (d)]; and SEC Rule 203(b)(3) of Regulation SHO [(a), (b), (c), and (d)]. The conduct described in this paragraph constitutes violations of NASD Rules 2110 and 3010.

4. The firm failed to provide documentary evidence that during the 2007 Short Sales Review Period it performed the supervisory reviews set forth in its written supervisory procedures concerning SEC Rule 203(b)(1) of Regulation SHO. The conduct described in this paragraph constitutes violations of NASD Rules 2110 and 3010.

20090170079

5. The firm failed to show the terms and conditions on the memorandum of 16 brokerage orders. In addition, the firm failed to show the correct time of entry and/or the correct time of execution on the memorandum of 18 brokerage orders. The conduct described in this paragraph constitutes separate and distinct violations of SEC Rule 17a-3 and NASD Rule 3110.
6. The firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to certain applicable securities laws and regulations, and/or the Rules of FINRA. At a minimum, adequate written supervisory procedures addressing quality of markets topics should describe the following:
 - (a) specific identification of the individual(s) responsible for supervision;
 - (b) the supervisory steps and reviews to be taken by the appropriate supervisor;
 - (c) the frequency of such reviews; and
 - (d) how such reviews shall be documented.

The firm's written supervisory procedures failed to provide for one or more of the four above-cited minimum requirements for adequate written supervisory procedures, in the following subject areas: SEC Rule 204 of Regulation SHO [(a), (b), (c), and (d)]; SEC Rule 10b-21 [(a), (b), (c), and (d)]; and other trading rules, namely compliance with trading halts [d]. The conduct described in this paragraph constitutes a violation of FINRA Rule 2010 and NASD Rule 3010.

7. The firm failed to provide documentary evidence that during the 2009 TMMS Exam it performed the supervisory reviews set forth in its written supervisory procedures concerning SEC Rule 203(b)(1) of Regulation SHO. The conduct described in this paragraph constitutes violations of FINRA Rule 2010 and NASD Rule 3010.

20090178252

8. During the OTC Compliance Review Period, the firm effected 24 transactions in securities while a trading halt was in effect with respect to each of the securities. The conduct described in this paragraph constitutes separate and distinct violations of NASD Rules 2110 and 3340.

20100224192

9. During the 2008/2009 Short Sales Review Period, the firm executed 4,089,314 short sale transactions in National Market System ("NMS") securities and failed to report each of the transactions to the FINRA/Nasdaq Trade Reporting Facility (the "FINRA/Nasdaq TRF") with a short sale indicator. The conduct described in this paragraph constitutes separate and distinct violations of NASD Rule 6130(d) for trade reports submitted to the FINRA/Nasdaq TRF from September 8, 2008 through December 14, 2008, and separate and distinct violations of FINRA Rule 6182 for trade reports in NMS securities submitted to the FINRA/Nasdaq TRF from December 15, 2008 through November 21, 2009.

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

A censure and a fine of \$80,000, consisting of the following:

- \$25,000 fine for Reg. SHO violations and a \$5,000 fine for supervision violations in 20080132221;
- \$5,000 fine for recordkeeping violations; and a \$10,000 fine for supervision violations in 20090170079;
- \$5,000 fine for Rule 3340 violations in 20090178252;
- \$30,000 fine for short sale reporting violations in 20100224192; and
- an undertaking to revise the firm's written supervisory procedures with respect to the areas described in paragraphs I.A.3 and 6.

Within 30 business days of acceptance of this AWC by the NAC, a registered principal of the Respondent shall submit to the **COMPLIANCE ASSISTANT, LEGAL SECTION, MARKET REGULATION DEPARTMENT, 9509 KEY WEST AVENUE, ROCKVILLE, MD 20850**, a signed, dated letter, or an e-mail from a work-related account of the registered principal to MarketRegulationComp@finra.org, providing the following information: (1) a reference to this matter; (2) a representation that the firm has revised its written supervisory procedures to address the deficiencies described in paragraphs I.A.3 and 6; and, (3) the date the revised procedures were implemented.

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.

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.

12/10/2012
Date

Respondent
ITG Inc.

By: P. Mats Goebels

Name: P. MATS GOEBELS
~~MANAGING DIRECTOR~~
GENERAL COUNSEL AND SECRETARY

Title: _____

Reviewed by:

Mark Solomon, Esq.

Mark Solomon, Esq.
Counsel for Respondent
ITG Inc.
380 Madison Avenue, 4th Floor
New York, NY 10017

Accepted by FINRA:

1/8/13
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

2009 Market Regulation Examination Samples
ITG, Inc. ("ITGI")
Exam No. 20090170079
Sample Source/Period:
May 27 and 28, 2009

Exhibit A

<u>Sample</u>	<u>Sample Description</u>
<u>Size</u>	
49	Sales reviewed for compliance with SEC Rule 200(g) long/short sale recording requirements
0	Short Sales reviewed for compliance with SEC Rule 203(b) security location requirements
0	Sales reviewed for compliance with SEC Rule 204T fail-to-deliver requirements
437	Trades reported to a TRF or OTCTRF for compliance with FINRA Rules 7230A, 7330, 6182, 6380A, 6380C, 6622 and 6624
	<u>437</u> for general trade reporting requirements
	<u>0</u> for Cancellation of reported trade requirements
	<u>437</u> for Principal, Riskless Principal, or Agency executions effected otherwise than on an exchange
	<u>0</u> for compliance with the use of the .PRP (Prior Reference Price) trade modifier
	<u>10</u> for compliance with the requirements of odd-lot trade reporting
	<u>0</u> for compliance with the use of the .RA trade modifier (prices away from the market)
	<u>0</u> for compliance with the use of the .RX trade modifier (exercise OTC options contract)
	<u>0</u> for compliance with SEC '34 Act Section 28(e) guidelines relating to Soft Dollar Agreements
<u>401</u>	for Sale Indicator requirements
1	Disclosure to customers relating to trading in the Extended Hours session for compliance with FINRA Rule 2265 and Nasdaq Rule 4631
346	Orders entered into Nasdaq Exchange execution systems for compliance with Nasdaq Rule 4755 long/short reporting requirements
0	Orders entered into BATS Exchange execution systems for compliance with BATS Rule 11.19 long/short reporting requirements
0	Limit orders for NMS securities in which the member acts as an exchange market maker for compliance with the display requirements of SEC Rules 602 and 604 and Nasdaq Rule 3390
0	Orders for compliance with best execution requirements of NASD Rule 2320
	<u>0</u> Orders executed as principal for compliance NASD Rule 2320 and with the order protection requirements of FINRA Rule 2010, NASD Rules IM 2110-2, and 2111 and Nasdaq Rules 2110, IM-2110-2, and 2111
	<u>0</u> 'Not Held' orders for compliance with NASD Rule 2320 and Nasdaq Rule 2320 best execution requirements
	<u>0</u> Customer market orders in CQS securities for compliance with NASD Rule 2320 and Nasdaq Rule 2320 best execution requirements
	<u>0</u> Customer orders in OTC equity securities for compliance with NASD Rules 2320 and 3110(b) requirements to ascertain and document best interdealer market related to execution of orders
0	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

2009 Market Regulation Examination Samples
ITG, Inc. ("ITGI")
Exam No. 20090170079
Sample Source/Period:
May 27 and 28, 2009

Exhibit A

<u>Sample Size</u>	<u>Sample Description</u>
0	Order memoranda and Net Trading agreements for compliance with NASD Rule 2441 requirements
49	Orders in securities required to be submitted to OATS for compliance with FINRA Rules 7440 and 7450 and Nasdaq Rules 6954 and 6955 requirements
44	Customer confirmations prepared and maintained in connection with select samples <u>44</u> for compliance with SEC Rule 10b-10 disclosure requirements <u>0</u> for compliance with SEC '34 Act Section 28(e) guidelines relating to Soft Dollar Agreements
25	Orders for NMS securities in which the Firm acts as a market center for compliance with SEC Rule 605 order classification requirements
4	Data sets published for monthly order execution report for compliance with SEC Rule 605 requirement to publish accurate data (a 'data set' encompasses all required statistical data for single security and order type/size category as described in SEC Rule 605)
30	Orders underlying data sets reviewed for NMS securities in which the Firm acts as a market center for compliance with SEC Rule 605 order classification requirements
1	Quarterly Routing Report for compliance with SEC Rule 606 requirements
15	CRD registration records for persons conducting and/or supervising Firm's trading and/or market making activities for compliance with NASD Rule Series 1020, 1030, 1040 and Nasdaq Rule Series 1020, 1030, 1040
All Provided	Member's "Regular & Rigorous" review procedures regarding order execution quality for compliance with NASD Rules 2320 and 3010
All Provided	Member's supervisory system, written supervisory procedures ("WSPs") and documentation evidencing execution of the WSPs for compliance with NASD Rule 3010 and BATS Rule 5.1 requirements
All Provided	Member's supervisory and operational policies and procedures and documentation evidencing execution of the policies and procedures for compliance with SEC Regulation NMS Rules 610, 611, and 612
169	Records prepared and maintained in connection with the above samples for compliance with SEC Rules 17a-3 and 17a-4 and NASD Rule 3110

ITG Inc. (20080132221)
Exhibit B

Security	Close-Out Obligation Began	Close-Out Obligation Ended	Duration (Days)
AHMIQ	9/26/2007	9/27/2007	2
BKUNA	6/16/2008	6/19/2008	4
CCRT	6/27/2008	7/2/2008	4
CONN	11/29/2007	12/3/2007	3
CONN	1/4/2008	2/11/2008	14
CROX	7/7/2008	7/8/2008	2
CSIQ	6/11/2007	7/12/2007	23
CTIC	9/14/2007	9/18/2007	3
DSL	9/3/2008	9/9/2008	5
FBTX	6/18/2008	7/3/2008	12
FRPT	9/14/2007	9/19/2007	4
INPC	12/4/2007	12/18/2007	11
IOC	9/10/2007	10/2/2007	16
JOSB	5/12/2008	5/15/2008	4
KNX	3/31/2008	4/1/2008	2
LPHI	10/3/2007	10/26/2007	16
LTM	7/7/2008	7/11/2008	5
MDTL	2/4/2008	2/6/2008	3
MOVIQ	12/6/2007	12/18/2007	9
SIGM	6/20/2008	6/27/2008	6
SORC	6/30/2008	7/2/2008	3
TGIC	4/1/2008	4/4/2008	4
USNA	4/1/2008	4/2/2008	2
UTSI	9/7/2007	10/5/2007	21
VNBC	3/24/2008	4/1/2008	7