

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 201002177650 |**

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

RE: Scottrade, Inc. ("Scottrade" or the "Firm")
CRD No. 8206

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Scottrade Inc. 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 Scottrade alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. Scottrade 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

Scottrade has been a member of FINRA since May 1980. Scottrade's headquarters are located in St. Louis, Missouri. Scottrade operates generally as an on-line brokerage firm for customer-directed trading, but also has 510 branch offices and employs approximately 1,900 registered individuals.

RELEVANT DISCIPLINARY HISTORY

Scottrade, Inc., AWC No. 2007007126901 (Feb. 10, 2007).

In February 2008, Scottrade consented to findings that it failed to comply with certain requirements of NASD Rule 2520 relating to pattern day trading margin requirements. Specifically, from February 2006 through October 2007, Scottrade allowed pattern day traders to continue to trade and did not properly restrict their trading activities after the value of their accounts fell below the minimum equity requirement (\$25,000) in violation of NASD Rule 2520(f)(8). In all, Scottrade permitted customers in 11,708 margin accounts to execute 171,910 day trades when the values of their accounts were below the minimum equity requirement. Scottrade also improperly extended credit to certain cash account customers by failing to obtain timely cash payment from the customers for their purchases and by failing to cancel or liquidate

those transactions within the time period specified by Federal Reserve Regulation T. The Firm consented to a censure and a \$200,000 fine.

OVERVIEW

On February 27, 2001, the Securities and Exchange Commission ("SEC") approved amendments to NASD Rule 2520 relating to margin requirements for day traders. The amendments became effective on September 28, 2001. The amendments were designed to address the intraday risks associated with day trading in customer accounts, and required that equity and maintenance margin be deposited and maintained in customer accounts that engage in pattern day trading in amounts sufficient to support the risks associated with such trading activities.

Between September 2001 and December 21, 2009 ("Day Trading Relevant Period"), Scottrade failed to comply with certain requirements of NASD Rule 2520 by using an improper method to calculate the reduction in pattern-day-traders buying power that failed to detect in all cases when day-traders exceeded buying power, resulting in a failure in certain instances to issue the required margin call and impose other necessary restrictions. In so doing, Scottrade failed to have an adequate supervisory system to comply with the rule.

Scottrade also failed to comply with certain requirements under Regulation SHO. In 2004, the SEC adopted Regulation SHO ("Reg SHO") under the Securities Exchange Act of 1934, establishing a regulatory framework to govern short sales by, among other things, imposing a "close-out" requirement to prevent fails to deliver in certain equity securities.¹ In October 2008, the SEC modified certain of Reg SHO's obligations in order to address concerns about "naked" short-selling and general market upheaval, by adopting temporary Rule 204T.² Rule 204T shortened the time-frame within which fails to deliver must be closed out (to three days) and imposed an immediate close-out requirement on fail-to-deliver positions by no later than the beginning of regular trading hours on the fourth day after the short sale. The rule provided a limited exemption to the close-out requirement in instances where the participant³ had purchased securities in the days between effecting the short sale and settlement date.

Between December 2008 and November 2009 ("Reg SHO Relevant Period"), Scottrade failed to comply with Rule 204's close-out requirement in approximately 6,541 instances. Scottrade also failed to establish and maintain supervisory procedures reasonably designed to ensure proper and timely compliance with close-out requirements.

¹ A "fail to deliver" occurs when a broker-dealer fails to deliver securities to the party on the other side of the transaction on settlement date (*i.e.*, T+3).

² The SEC made the amendments in Rule 204T permanent when it adopted Rule 204, effective July 31, 2009. Rule 204 differs from Rule 204T in minor respects, none of which has any bearing on the matter here. For the sake of simplicity, this AWC will refer to Rule 204 to mean both Rule 204 and the temporary Rule 204T.

³ Scottrade was a participant of a registered clearing agency for the purposes of Rule 204T and Rule 204. "Participant" of a registered clearing agency refers to "any person who uses a clearing agency to clear or settle securities transactions or to transfer, pledge, lend, or hypothecate securities. Such term does not include a person whose only use of a clearing agency is (A) through another person who is a participant or (B) as a pledge of securities." See Exchange Act Section 3(a)(24).

FACTS AND VIOLATIVE CONDUCT

Calculating Day-Trading Buying Power

NASD Rule 2520 provides certain margin requirements for pattern day traders.⁴ The rule requires that pattern day traders maintain a minimum equity balance of \$25,000 and imposes additional obligations on the firm if pattern day traders trade in excess of their day-trading buying power.⁵ The rule provides the method of calculating pattern day traders' buying power, as well as the method for monitoring whether pattern day traders have exceeded their buying power. Pattern day trading buying power is determined by taking the equity in the customers' account at the close of business of the previous day, less any maintenance margin, multiplied by four. The determination of whether the buying power has been exceeded is based on the cost of purchase transactions effected throughout the trading day.⁶ If a pattern day trader effects a purchase transaction in excess of the available day-trading buying power, Rule 2520 requires that the firm issue a margin call and impose certain limitations on the pattern day trader's margin availability until that margin call is met.

During the Day Trading Relevant Period, Scottrade had an automated system whereby the Firm monitored the day-trading buying power of pattern day traders on a real-time basis. As pattern day traders placed orders, Scottrade's trade execution platform calculated the effect of the transaction on the pattern day trader's day trading buying power – purchases reduced the available day-trading buying power and sales restored day-trading buying power. If a pattern day trader's purchase transaction exceeded available day trading buying power, the Firm's system automatically blocked the order.

During the Day Trading Relevant Period, however, the Firm used an improper method for calculating the reduction in day-trading buying power than provided for in Rule 2520. Rather than using the cost of the transaction -- the execution price of the transaction -- the Firm used the security's price at the close of the previous trading day. As a result, Scottrade could not properly monitor whether pattern day traders were trading in excess of their day trading buying power.

Based upon the foregoing conduct, the Firm violated NASD Rule 2520(f)(8)(B)(iv) during the Day Trading Relevant Period by using an improper method to determine whether pattern day traders exceeded available day-trading buying power, and NASD Rules 3010(a) and (b) by failing to have in place supervisory procedures that effectively detected pattern day traders who exceeded their day-trading buying power so that a margin call could be issued in accordance with NASD Rule 2520.

Failure to Effect Buy-In Transactions before Market Opening on T+4

Reg SHO Rule 204(a) requires participants of registered clearing agencies having a fail-to-deliver position to purchase or borrow securities to close out the fail by no later than the

⁴ NASD Rule 2520(f)(8)(B)(ii) defines a pattern day trader as any customer who executes four or more day trades within five business days.

⁵ NASD Rule 2520(f)(8)(B)(iv)(a)

⁶ NASD Rule 2520(f)(8)(B)(iii)

beginning of regular trading hours on the settlement day after the fail occurs (T+4). To encourage early close-outs of short positions, Rule 204(e) provides an exemption from the requirement. If the *broker-dealer* has purchased the like securities, in an amount sufficient to close the fail position, in a bona-fide transaction effected on T+1, T+2, and T+3, the broker-dealer is not required to effect a buy-in transaction on the morning of T+4 to close out the open position ("pre-fail credit").

During the Reg SHO Relevant Period, Scottrade improperly counted customer purchases of securities to take advantage of the "pre-fail credit" in calculating the Firm's close-out obligation on the morning of T+4. As a result, on approximately 6,541 occasions during the Reg SHO Relevant Period, the Firm failed to close out open fail positions by effecting a buy-in transaction prior to the opening of trading hours on the morning of T+4.

Based on the foregoing conduct, Scottrade violated Rule 204(a) by failing to close out approximately 6,541 open fail positions. Scottrade also violated NASD Rules 3010(a) and (b) by failing to have in place supervisory procedures that ensured compliance with Rule 204(a)'s close-out requirement and the Firm's use of the "pre-fail credit."

B. Scottrade also consents to the imposition of the following sanctions:

- Censure; and
- \$250,000 fine.

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

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

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

II.

WAIVER OF PROCEDURAL RIGHTS

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

- A. To have a Complaint issued specifying the allegations against it;
- 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, Scottrade 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.

Scottrade 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

Scottrade 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 Scottrade’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. Scottrade 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. Scottrade may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. Scottrade 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.

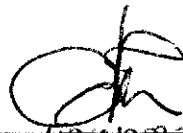
The undersigned, on behalf of the Firm, certifies that a person duly authorized to act on its behalf has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; that the Firm has agreed to its provisions voluntarily; and that no offer, threat, 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.

5/11/2012

Date (mm/dd/yyyy)

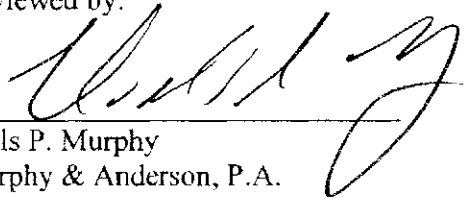
Scottrade, Inc.

By:



ALEXANDER T. MOORE
ASSOCIATE GENERAL COUNSEL

Reviewed by:



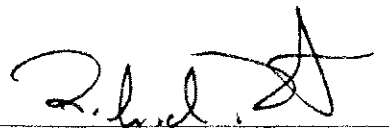
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Accepted by FINRA:

6-18-12

Date

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



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