

FINRA

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**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 20100228675-01**

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

RE: G1 Execution Services, LLC f/k/a
E*Trade Capital Markets LLC, Respondent
Broker-Dealer
CRD No. 111528

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, G1 Execution Services, LLC f/k/a E*Trade Capital Markets LLC (the "firm")¹ 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 June 5, 2001. Its registration remains in effect.

RELEVANT DISCIPLINARY HISTORY

On December 7, 2009, FINRA accepted an AWC in which the firm was fined \$52,500, of which \$5,000 was for trade reporting violations that occurred on June 20-21, 2007.

On June 26, 2008, FINRA accepted an AWC in which the firm was fined \$40,000, of which \$9,000 was for trade reporting violations that occurred on May 16-17, 2006.

¹ E*Trade Capital Markets LLC became known as G1Execution Services, LLC effective October 12, 2012, after the conduct that is the subject of this matter.

On June 26, 2008, FINRA accepted an AWC in which the firm was fined \$40,000, of which \$7,500 was for limit order protection violations that occurred during the 3Q05 time period.

SUMMARY

In Review No. 20100228675, the Short Sales Team of FINRA's Department of Market Regulation reviewed the firm's compliance with trade reporting requirements for short sale transactions during the period March 30, 2010 through June 17, 2010 (the "Short Sale review period").

In Review No. 20110261055, the Customer Issues Group of FINRA's Department of Market Regulation reviewed the firm's compliance with customer limit order protection requirements and other trading activity during the period April 1, 2009 through June 30, 2009 (the "LOP review period").

FACTS AND VIOLATIVE CONDUCT

20100228675 (Short Sale Review)

1. During the Short Sale review period, the firm executed 235,125 short sale transactions for which it failed to include the short sale modifier in the report of each of these transactions to the FINRA/Nasdaq Trade Reporting Facility or the OTC Reporting Facility. The conduct described in this paragraph constitutes separate and distinct violations of FINRA Rules 6182 and 6624.

20110261055 (LOP Review)

2. In 13 instances during the LOP review period, the firm failed to execute, or failed to contemporaneously or partially execute 10 limit orders in seven Nasdaq securities after it traded each subject security for its own market-making account at a price that would have satisfied each customer's limit order. The conduct described in this paragraph constitutes separate and distinct violations of FINRA Rule 2010 and NASD IM-2110-2.

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

- A censure and a \$25,000 fine (\$15,000 for the short sale reporting violations and \$10,000 for the limit order protection violations), and restitution by Respondent to the customers listed on Exhibit A which is attached, in the amount of \$121.46, plus interest at the rate set forth in Section 6621(a) of the Internal Revenue Code, 26 U.S.C. 6621(a)(2), from the date of the violative conduct until the date this AWC is accepted by the National Adjudicatory Council. A registered principal of the firm shall submit satisfactory proof of payment of the restitution, or of reasonable and documented efforts undertaken to effect restitution, to the COMPLIANCE ASSISTANT, LEGAL SECTION, MARKET REGULATION DEPARTMENT, 9509 KEY WEST AVENUE, ROCKVILLE, MD 20850 or in an e-mail from a work-related account of the registered principal to MarketRegulationComp@finra.org, no later than 120 days after acceptance of this AWC. If for any reason, Respondent cannot locate any customer after reasonable and documented efforts within such period, or such additional period agreed to by the staff, Respondent shall forward any undistributed restitution and interest to the appropriate escheat, unclaimed-property or abandoned-property fund for the state in which the customer is known to have last resided.

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.

Date 1/16/13

By: 
Name: Christopher Meyer
Title: CCO

Counsel for Respondent

2/8/13
Date

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

Part I: Triggering Transactions										Part II: Order Details									
Execution #	Original Order #	Order Date	Order Time	Order Type	Order Price	Order Quantity	Order Symbol	Order Price	Order Quantity	Order Symbol	Order Price	Order Quantity	Order Symbol	Order Price	Order Quantity	Order Symbol	Order Price	Order Quantity	Order Symbol
1	1	04/01/2009	12:18:46	ETHH	ETHH	1	ETHH	ETHH	1	ETHH	ETHH	1	ETHH	ETHH	1	ETHH	ETHH	1	ETHH
2	6	05/01/2009	09:20:02	ETHH	ETHH	1	ETHH	ETHH	1	ETHH	ETHH	1	ETHH	ETHH	1	ETHH	ETHH	1	ETHH
3	9	05/01/2009	09:20:02	ETHH	ETHH	1	ETHH	ETHH	1	ETHH	ETHH	1	ETHH	ETHH	1	ETHH	ETHH	1	ETHH
4	10	05/05/2009	09:20:06	ETHH	ETHH	1	ETHH	ETHH	1	ETHH	ETHH	1	ETHH	ETHH	1	ETHH	ETHH	1	ETHH
5	11	05/05/2009	09:20:06	ETHH	ETHH	1	ETHH	ETHH	1	ETHH	ETHH	1	ETHH	ETHH	1	ETHH	ETHH	1	ETHH
6	15	05/07/2009	10:45:54	ETHH	ETHH	1	ETHH	ETHH	1	ETHH	ETHH	1	ETHH	ETHH	1	ETHH	ETHH	1	ETHH
7	35	05/21/2009	14:53:10	ETHH	ETHH	1	ETHH	ETHH	1	ETHH	ETHH	1	ETHH	ETHH	1	ETHH	ETHH	1	ETHH
8	37	06/01/2009	09:20:04	ETHH	ETHH	1	ETHH	ETHH	1	ETHH	ETHH	1	ETHH	ETHH	1	ETHH	ETHH	1	ETHH
9	38	06/01/2009	11:07:53	ETHH	ETHH	1	ETHH	ETHH	1	ETHH	ETHH	1	ETHH	ETHH	1	ETHH	ETHH	1	ETHH
10	39	06/02/2009	11:14:34	ETHH	ETHH	1	ETHH	ETHH	1	ETHH	ETHH	1	ETHH	ETHH	1	ETHH	ETHH	1	ETHH
11	40	06/02/2009	11:15:41	ETHH	ETHH	1	ETHH	ETHH	1	ETHH	ETHH	1	ETHH	ETHH	1	ETHH	ETHH	1	ETHH
12	41	06/02/2009	11:15:41	ETHH	ETHH	1	ETHH	ETHH	1	ETHH	ETHH	1	ETHH	ETHH	1	ETHH	ETHH	1	ETHH
13	42	06/02/2009	11:17:09	ETHH	ETHH	1	ETHH	ETHH	1	ETHH	ETHH	1	ETHH	ETHH	1	ETHH	ETHH	1	ETHH

Total Realized Amount: \$11.46