

FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 20120310864-04

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

RE: Stock USA Execution Services, Inc, Respondent
Broker-Dealer
CRD No. 107403

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Stock USA Execution Services, Inc (the "firm" or "Respondent") 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 Respondent alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. Respondent 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 April 23, 2001, and its registration remains in effect.

RELEVANT DISCIPLINARY HISTORY

The firm has no relevant disciplinary history.

SUMMARY

In Trading and Market Making Surveillance ("TMMS") Examination No. 20130358303, the staff of FINRA's Department of Market Regulation (the "staff") reviewed the trading activity of the firm for compliance with various regulatory requirements set forth in Exhibit 1 for the trade dates of February 19, 2013 through February 22, 2013 (the "2013 TMMS Exam period"). The examination resulted in findings detailed below with respect to violations of books and records, order marking, Order Audit Trail System ("OATS") reporting, extended hours trading disclosure, order routing disclosure and supervisory requirements, among other findings to be addressed in concurrent actions on behalf of certain exchanges.

In Review No. 20130369140, the staff conducted a review of the firm's compliance with OATS reporting and related supervision requirements during the period of September 18, 2012 through April 30, 2013 (the "OATS review period").¹ The review resulted in findings that the firm failed to report more than 23 million Reportable Order Events ("ROEs") to OATS during the OATS review period and related supervisory failures.

FACTS AND VIOLATIVE CONDUCT

In connection with TMMS Examination No. 20130358303,

1. The firm failed to preserve for a period of not less than three years, the first two in an accessible place, certain order memoranda, account statements, customer confirmations and/or other books and records in connection with 631 orders during the 2013 TMMS Exam period. In addition, the firm failed to preserve certain order activity file records as to open orders generated by specified order management systems for three of the firm's four order management systems. The conduct described in this paragraph constitutes separate and distinct violations of SEC Rule 17a-4 and FINRA Rule 4511.
2. The firm: (a) failed to show the correct time of entry and/or time of execution on the memoranda of 17 brokerage orders; (b) failed to denote on 1,564 order memoranda that the order was a directed order; (c) failed to denote the correct order entry times, cancellation times and/or routing venues on 940 order memoranda; and (d) failed to show accurate time notations on order memoranda on four occasions. The conduct described in this paragraph constitutes separate and distinct violations of SEC Rule 17a-3 and FINRA Rule 4511.
3. During the 2013 TMMS Exam period, the firm failed on 739 occasions to designate whether the order was a short or long sale or short exempt; incorrectly marked a long sale as a short sale on 123 occasions; and incorrectly marked a short sale as a long sale on four occasions. The conduct described in this paragraph constitutes separate and distinct violations of Rule 200(g) of Regulation SHO.
4. The firm transmitted OATS reports concerning 22 orders that contained inaccurate, incomplete, or improperly formatted data. Specifically, the firm: (a) submitted an incorrect Account Type Code for ten orders, (b) failed to submit a Special Handling Code of "DIR" for eight orders, (c) submitted both an incorrect Account Type Code and failed to submit a Special Handling Code of "DIR" for two orders, and (d) submitted an incorrect Time in Force Code for two orders. The conduct described in this paragraph constitutes separate and distinct violations of FINRA Rule 7450.

¹ Both Exam No. 20130358303 and Review No. 20130369140 are incorporated into Review No. 20120310864, which addresses multiple reviews conducted by the staff on behalf of seven securities exchanges of the firm's risk management controls and supervisory systems and procedures during the period of April 1, 2011 through September 30, 2013. Findings from Review No. 20120310864 are being resolved in separate exchange actions.

5. On ten occasions with respect to ten orders, the firm accepted orders from customers that were executed in whole or in part in the pre-market session or post market session without disclosing to such customers that extended hours trading involves material trading risks, including the possibility of lower liquidity, high volatility, changing prices, unlinked markets, an exaggerated effect from news announcements, wider spreads and any other relevant risk. The conduct described in this paragraph constitutes separate and distinct violations of FINRA Rule 2265.
6. The firm failed to notify its customers at least annually that customers may request specific information regarding the routing of their own trades. In addition, the firm failed to adequately disclose to customers the differentiation between two routing venues. The conduct described in this paragraph constitutes violations of Rule 606 of Regulation NMS.
7. 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 all of the four above-cited minimum requirements for adequate written supervisory procedures [(a), (b), (c) and (d)], in the following subject areas: (1) SEC Rule 606; (2) Best Execution; (3) Anti-Intimidation/Coordination; (4) Trade Reporting as to timeliness and reporting by a third party on behalf of the firm; (5) Order Marking as to short/long determinations and accurate order marking; (6) SEC Rule 203(b); (7) SEC Rule 204; (8) SEC Rule 10b-21; (9) Trading Halts in Exchange-Listed or OTC Equity securities; (10) Maintenance of Physical Security to Prevent Improper Use of Or Unauthorized Entry of Information Into FINRA Systems; (11) Clearly Erroneous Transactions; (12) Algorithmic Trading; (13) Books and Records and Electronic Communications Reviews; and, (14) Use of Multiple Market Participant Identifiers. In addition, the firm failed to adequately address the following subset of above requirements for OATS Reporting compliance [(b), (c) and (d)]. The conduct described in this paragraph constitutes violations of NASD Rule 3010 and FINRA Rule 2010.

8. The firm failed to provide documentary evidence that during February 2013 it performed the supervisory reviews set forth in its written supervisory procedures concerning registration of firm personnel. The conduct described in this paragraph constitutes violations of NASD Rule 3010 and FINRA Rule 2010.

In connection with Review No. 20130369140,

9. During the OATS review period, the firm failed to transmit 23,019,398 ROEs to OATS on 154 business days. These 23,019,398 ROEs represented 4.98 percent of all ROEs (462,077,840) that the firm was required to transmit to OATS during the review period. The conduct described in this paragraph constitutes separate and distinct violations of FINRA Rule 7450.
10. The firm failed to provide documentary evidence that it performed the supervisory reviews set forth in its written supervisory procedures concerning OATS reporting compliance during the review period. The conduct described in this paragraph constitutes violations of NASD Rule 3010 and FINRA Rule 2010.

OTHER FACTORS

On March 26, 2013 and May 8, 2013, the firm, through organizations submitting the firm's OATS reports on its behalf, notified the staff that it had failed to submit a portion of its OATS reportable activity. The firm further undertook steps to remediate the issue, including addressing certain systems issues that led to the OATS nonreporting and ultimately submitting to OATS the ROEs it had originally failed to report. The sanctions set forth below take into consideration the firm's self-reporting and remedial measures taken to address the OATS reporting issues.

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

1. **A censure;**
2. **A total fine of \$595,000, to be paid jointly to NYSE Arca, Inc., BATS Exchange, Inc., BATS Y-Exchange, Inc., EDGA Exchange, Inc., EDGX Exchange, Inc., The Nasdaq Stock Market LLC, Nasdaq OMX BX, Inc., and FINRA, of which \$85,000 shall be paid to FINRA in connection with this AWC for the above-referenced findings from the 2013 TMMS Exam period and OATS review period (consisting of \$10,000 for the above books and records findings from the exam, \$10,000 for the exam order marking findings, \$5,000 for the exam extended hour disclosure failures, \$12,500 for the exam Rule 606 findings, \$7,500 for the exam supervisory findings, \$25,000 for the combined OATS reporting violations from the exam and OATS review period, and \$15,000 for the supervisory findings from the OATS review period); and**
3. **an undertaking to provide three reports, written and oral, to FINRA on dates that are no more than six months, 12 months, and 18 months after the date of the Notice of Acceptance of this AWC, concerning the firm's implementation and effectiveness of the firm's policies, systems and procedures (written and otherwise) and training (collectively, "the Controls") relating to the specific**

areas described above to ensure that the firm addresses supervisory inadequacies identified above from the 2013 TMMS Exam and OATS review periods.¹

The written reports shall be certified by an officer of the firm and shall address, at a minimum, the implementation and performance of the firm's Controls; the steps taken by supervisory personnel to ensure compliance in the abovementioned areas and the results of such supervisory reviews; training; and modifications or recommendations for improvements to the Controls and dates of the effectiveness of such modifications or planned implementation of such recommendations. Upon written request showing good cause, FINRA staff may extend any of the procedural dates set forth herein.

Respondent 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.

Respondent 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

Respondent 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, Respondent specifically and voluntarily waives any right to claim bias or prejudgment of the Chief Legal Officer, 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.

¹ Additional subjects covered by the undertaking in connection with the market access reviews are detailed in the concurrent exchange actions for Review No. 20120310864.

Respondent 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

Respondent 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 Respondent; 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 accordance with FINRA Rule 8313;
 - 3. FINRA may make a public announcement concerning this agreement and the subject matter thereof in accordance with FINRA Rule 8313; and
 - 4. Respondent 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. Respondent 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: (i) testimonial obligations; or (ii) right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.
- D. Respondent 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.

FEB 17, 2015
Date

Respondent
Stock USA Execution Services, Inc,

By: [Signature]

Name: Carrie A. Mammie

Title: CEO

Reviewed by:

[Signature]
Dana S. Gloor
Counsel for Respondent
Miles & Stockbridge P.C.
100 Light Street
Baltimore, MD 21202
(410) 727-6464

Accepted by FINRA:

April 10, 2015
Date

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

[Signature]
David E. Rosenstein, Esq.
Senior Vice President and Counsel
Department of Market Regulation

2013 Market Regulation Examination Samples
 Stock USA Execution Services, Inc.
 Exam No. 20130358303
 Sample Source/Period: February 19-22, 2013

<u>Sample Size</u>	<u>Sample Description</u>
8102	Sales reviewed for compliance with SEC Rule 200(g) long/short sale recording requirements
7194	Short Sales reviewed for compliance with SEC Rule 203(b) security location requirements
4	Sales reviewed for compliance with SEC Rule 204 fail-to-deliver requirements
20	Sell orders entered into Nasdaq Exchange execution system for compliance with Nasdaq Rule 4755(a)(1)(A) long/short reporting requirements
20	Buy and Sell orders entered into Nasdaq Exchange execution system for compliance with Nasdaq Rule 4611 capacity reporting requirements
40	Sell orders entered into DirectEdge Exchange execution systems for compliance with EDGA/EDGX Rule 11.15 long/short reporting requirements
40	Buy and Sell orders entered into DirectEdge Exchange execution systems for compliance with EDGA/EDGX Rule 11.22 capacity reporting requirements
18	Sell orders entered into NYSE-Arca execution system for compliance with NYSE-Arca Equities Rule 7.16 long/short reporting requirements
20	Buy and Sell orders entered into NYSE-Arca execution system for compliance with NYSE Arca Equities Rule 7.33 capacity reporting requirements
15920	Orders in securities required to be submitted to OATS for compliance with FINRA Rules 7440 and 7450 requirements
18	Customer confirmations prepared and maintained in connection with select samples for compliance with SEC Rule 10b-10
1st Qtr 2013	Quarterly Routing Report for compliance with SEC Rule 606 requirements
14	CRD registration records for persons conducting and/or supervising Firm's trading and/or market making activities for compliance with NASD Rule Series 1020-1040; Nasdaq Rule Series 1020-1040, Nasdaq OMX BX Rule Series 1020-1040; Nasdaq OMX PHLX Rule Series 600-604; EDGA/EDGX Rules 2.3, 2.5 and 11.4 and NYSE-Arca Rules 2.4, 6.18 and 7.21
10	Disclosures to customers relating to trading in the Extended Hours session for compliance with FINRA Rule 2265
3	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
26727	Records prepared and maintained in connection with the above samples for compliance with SEC Rules 17a-3 and 17a-4
All Provided	Member's "Regular & Rigorous" review procedures regarding order execution quality for compliance with FINRA Rule 5310 and NASD Rule 3010
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 Rule 611
All Provided	Member's supervisory system, written supervisory procedures ("WSPs") and documentation evidencing execution of the WSPs for compliance with NASD Rule 3010, Nasdaq Rule 3010, Nasdaq OMX BX Rule 3010, Nasdaq OMX PHLX Rule 748, EDGA Rule 5.1, EDGX Rule 5.1 or NYSE-Arca Rule 6.18 requirements
All Provided	Member's risk management and supervisory system/procedures and documentation evidencing execution of the policies and procedures for compliance with SEC Rule 15c3-5 requirements

2013 Market Regulation Examination Samples
Stock USA Execution Services, Inc.
Exam No. 20130358303
Sample Source/Period: February 19-22, 2013

Sample
Size

Sample Description

0

Trading Halts declared during the on-site portion of the examination for which FINRA Staff observed the operation of the ATS.

CORRECTIVE ACTION STATEMENT

Respondent Stock USA Execution Services, Inc., ("SUSA" or the "Firm") respectfully submits this Corrective Action Statement to accompany its Letters of Acceptance, Waiver and Consent ("AWC") with regard to the matters referenced above.

This corrective action statement is submitted by Stock USA Execution Services, Inc. It does not constitute factual or legal findings by FINRA, nor does it reflect the view of FINRA or its staff.

The Firm is committed to compliance with all applicable laws and regulations, and accordingly, it has invested substantial time and resources necessary to replace personnel in key positions, change its business, and improve its procedures. Specifically, the Firm has taken the corrective measures set forth below relating to the conduct described in the AWC documents.

I. Changes in Firm management and business model.

In the summer of 2012, the Firm recognized that it needed to make changes to its business in order to comply more effectively with regulatory requirements. In May 2012, the Firm terminated the employment and registration of its then-President. It promoted the then-Chief Compliance Officer to the role of President, with the intent that he apply his compliance background to develop more robust, appropriate compliance procedures. When that appointment did not work as hoped, the Firm promptly hired a new President. The Firm began to change its business, closing accounts that it identified as being used for high-frequency trading. The Firm no longer permits foreign financial institutions to maintain omnibus accounts through the Firm. The Firm requires that all accounts be opened directly with the Firm by the owner of the account/ assets.

The Firm continued to make significant organizational changes in an effort to bring its business into better compliance with these rules. In July 2013, the Firm replaced the CCO. In August 2013, the Firm terminated the employment and registration of its then-Chief Operating Officer, who had been responsible for designing the system of supervision of trading, and for implementing that system. In March 2014, the Firm reorganized its top management once more. The Firm believes it has optimized the placement of people in key roles.

Further, in December 2013 - January 2014, the Firm eliminated two branches, and terminated the registrations of 5 registered representatives, so as to streamline and further define the Firm's business and reduce its supervisory burden. The Firm also reduced the number of trading platforms offered to its clients from four to one, which consolidates the source of trading information that the firm must review, and thereby increases the effectiveness of the firm's reviews.

II. Changes in Firm procedures.

The Firm has enhanced its systems and procedures for reviewing and supervising client trading, so that it is better able to detect, prevent and investigate potentially manipulative, suspicious or otherwise violative trading. The Firm implemented pre-trade systems and controls to prevent the entry of orders that met risk criteria defined by the Firm, or that failed to comply in other respects with regulatory requirements or Firm policies. The Firm has also developed and implemented a series of post-trade review procedures designed to detect possible violations. The Firm takes action to prevent potential improprieties, including by restricting and/or closing accounts that engage in trading that gives rise to concerns.

The Firm has designated specific personnel to conduct the reviews on a specific schedule, and has developed procedures for memorializing the reviews and any follow-up conducted.

III. Enhancements relating to OATS and TMMS issues.

The Firm has developed procedures to ensure that it obtains from its clearing firms and other vendors required records relating to the Firm's trade orders and transactions, and filed reports. It has improved its filing system, which should ensure that it can locate files promptly, and that it retains records for the appropriate time period. The Firm has also enhanced its procedures to review the trade records and OATS reports in a timely manner to check for possible inaccurate, incomplete or improperly formatted data in the order entry or reporting processes. These include reviews for correct entry of principal/agency capacity, long vs short sales, clearly erroneous transactions, algorithmic trading, possible misuse of inside information, and other potential issues.

Finally, the Firm has updated its disclosures to ensure that all customers receive required information about extended hours trading, requesting order routing information, and related information.

The Firm has designated specific personnel to conduct the reviews on a specific schedule, and has developed procedures for memorializing the reviews and any follow-up conducted.