

**FINANCIAL INDUSTRY REGULATORY AUTHORITY  
LETTER OF ACCEPTANCE, WAIVER AND CONSENT  
NO. 20160514748-01**

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

**RE:** Dash Financial Technologies LLC (f/k/a/ Dash Financial LLC and Electronic Brokerage Systems LLC), Respondent  
Broker-Dealer  
CRD No. 104031

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Dash Financial Technologies LLC f/k/a/ Dash Financial LLC, and Electronic Brokerage Systems LLC ("Dash" or 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 Dash 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 March 26, 2001, and its registration remains in effect. The firm is an agency-only broker-dealer that offers routing and execution services to institutional clients for equities and options. From January 2002 to March 2014, the firm was known as Electronic Brokerage Systems LLC. From March 2014 to March 2017, the firm was known as Dash Financial LLC and thereafter as Dash Financial Technologies LLC. The firm has no relevant disciplinary history.

**SUMMARY**

During the period of July 23, 2012 through May 31, 2017 (the "review period"), Dash transmitted to OATS over one billion inaccurate Reportable Order Events ("ROEs"), primarily due to the failure to append the "directed" special handling code to directed orders. A ROE is a record of events in the life cycle of an order, such as order receipt, order cancellation, and order execution. Due to deficiencies in the firm's supervisory system, the firm's OATS violations went undetected until identified by FINRA staff. By virtue of the foregoing, the firm violated FINRA Rule 7450, NASD Rule 3010 (prior to

December 1, 2014), FINRA Rule 3110 (beginning December 1, 2014), and FINRA Rule 2010.

### **FACTS AND VIOLATIVE CONDUCT**

1. Pursuant to FINRA Rule 7450 (Order Transmission Data Requirements), reporting members are responsible for the complete and accurate transmittal to OATS of information related to: (i) the receipt or origination of each order; (ii) the transmission of each order; and (iii) the modification, cancellation, or execution of each order.
2. FINRA Rule 2010 requires a member, in the conduct of its business, to observe high standards of commercial honor and just and equitable principles of trade. A violation of any FINRA Rule generally constitutes a violation of FINRA Rule 2010.
3. FINRA established OATS as an integrated audit trail of order, quote, and trade information. FINRA uses OATS data to reconstruct markets promptly, effectively surveil them, and enforce various rules and regulations applicable to FINRA member firms. FINRA uses OATS data as an integral part of its automated market surveillance program to detect manipulative activity and other potential violations of FINRA rules and federal securities laws. Thus, the transmission of inaccurate, incomplete, or untimely ROEs to OATS can impede FINRA's ability to detect potentially violative conduct and create false positive alerts requiring the expenditure of unnecessary resources to resolve the alerts. Moreover, these failures cause the audit trail to be inaccurate.
4. During the review period, Dash reported approximately 1,067,670,851 inaccurate, incomplete, or improperly formatted ROEs, which represented more than 60% of the ROEs that the firm was required to transmit to OATS during the review period, including approximately: (i) 982,563,975 New Order Reports<sup>1</sup> that failed to identify the "Directed" Special Handling Code<sup>2</sup> on directed orders; (ii) 84,001,091 Route Reports<sup>3</sup> that contained an inaccurate Routing Method Code;<sup>4</sup>

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<sup>1</sup> A New Order Report is submitted when an order is originated or received by a member firm or electronic communications network ("ECN").

<sup>2</sup> A Special Handling Code indicates additional handling instructions that affect the pricing, quantity, execution timing, or execution method of an order. "DIR" is one of over 70 different options available for appending a Special Handling Code within five available fields.

<sup>3</sup> A Route Report is submitted when an order is sent from a member firm to another member firm, ECN, exchange, or non-member for handling or execution.

<sup>4</sup> A Routing Method Code indicates whether an order was sent electronically, manually, via a Smart Router or via a NYSE Floor Broker Algorithm. Dash submitted 84,001,091 Route Reports with a Routing Method Code of "E" (Electronic) instead of "S" (Smart Router).

(iii) 386,783 Cancel Reports<sup>5</sup> that contained an inaccurate Cancel Leaves Quantity;<sup>6</sup> (iv) 399,793 New Order Reports that contained an inaccurate Trading Session Code;<sup>7</sup> (v) 315,543 New Order Reports for one client that contained an inaccurate Member Type Code,<sup>8</sup> Order Origination Code<sup>9</sup> and failed to include a Routing Firm member participant identifier; (vi) 2,316 Execution Reports<sup>10</sup> that contained an Execution Timestamp which omitted millisecond information; and (vii) 1,350 Execution Reports that contained an inaccurate Execution Type Indicator<sup>11</sup> and Leaves Quantity.<sup>12</sup> These inaccuracies resulted from various causes, including Dash's misunderstandings of the application of certain codes; logic flaws within its own systems and, in the case of (vi) and (vii), logic flaws within a third-party execution and order management system; and the misclassification of a client account. The conduct described in this paragraph constitutes separate and distinct violations of FINRA Rules 7450 and 2010.

#### **Rules Governing Dash's Supervisory Obligations**

5. NASD Rule 3010(a) and FINRA Rule 3110(a) require each member to establish and maintain a system that is reasonably designed to achieve compliance with applicable securities laws and regulations and FINRA rules.
6. NASD Rule 3010(b) and FINRA Rule 3110(b) require each member firm to establish, maintain, and enforce written procedures to supervise the types of business in which it engages that are reasonably designed to achieve compliance with applicable securities laws and regulations, and with the applicable FINRA Rules.

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<sup>5</sup> A Cancel Report is submitted when an order is fully or partially canceled. It may also be used to report a reduction in share quantity or the cancellation of all remaining shares of an order.

<sup>6</sup> Cancel Leaves Quantity is the number of shares remaining open when an order is partially cancelled. Dash submitted 386,783 Cancel Reports where the Cancel Leaves Quantity should have been reported as 0 (zero).

<sup>7</sup> Trading Session Code refers to the trading session(s) during which an order is eligible to trade. The 399,793 New Order Reports related to orders submitted before the open or after the close.

<sup>8</sup> The Member Type Code indicates from where the order was received.

<sup>9</sup> The Order Origination Code identifies whether the order was received from a customer of the firm, originated by the firm, or received from another broker-dealer.

<sup>10</sup> An Execution Report is submitted when an order is fully or partially executed (filled) and to report a reduction in share quantity or the cancellation of all remaining shares of an order. A separate Execution Report must be submitted for each execution of an order.

<sup>11</sup> Execution Type Indicator indicates if the execution was a full or partial execution.

<sup>12</sup> Leaves Quantity is the quantity of shares remaining open after a partially executed order.

### **Dash's Supervisory Deficiencies with Respect to OATS Reporting**

7. During the review period, Dash's supervisory system was not reasonably designed to achieve compliance with respect to applicable securities laws and regulations, and FINRA Rules, concerning OATS. The firm's WSPs described several reviews conducted by the firm's OATS Administrator and/or Compliance personnel, including daily and weekly reviews related to rejects, mismatches, and out-of-sequence events, and monthly reviews of FINRA OATS Report Cards. Thus, Dash's supervisory system focused on correcting OATS issues that either impacted the ability to submit OATS ROEs or were identified by FINRA (*i.e.*, rejects, mismatches, out-of-sequence events, etc.), but was not reasonably designed to identify situations in which ROEs contained inaccurate information that would not result in rejects, mismatches, out-of-sequence events, etc., such as the situations identified above. In this regard, while Dash reviewed a small number of orders on a monthly and semi-annual basis to ensure the ROEs submitted for those orders were accurate, the number of orders reviewed was unreasonably small and not tailored to the firm's business activity. As such, Dash failed to establish and maintain a supervisory system and written procedures reasonably designed to achieve compliance with OATS reporting rules. As a result of its supervisory failures, Dash was unaware of its inaccurate OATS submissions until notified by FINRA staff. The conduct described in this paragraph constitutes a violation of NASD Rule 3010 (for conduct prior to December 1, 2014), FINRA Rule 3110 (for conduct on or after December 1, 2014), and FINRA Rule 2010.

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

A censure and a fine of \$90,000 (\$65,000 for OATS violations and \$25,000 for related supervisory violations).

The firm agrees to pay the monetary sanction upon notice that this AWC has been accepted and that such payment is 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 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 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 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.

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 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. 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: (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. 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.

12/18/2019  
Date

Respondent  
Dash Financial Technologies LLC

By: [Signature]  
Name: Peter Maragos  
Title: CEO

Reviewed by:

[Signature]  
Counsel to Respondent

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Accepted by FINRA:

1/2/2020  
Date

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

[Signature]  
Elyse D. Kovar  
Senior Counsel  
FINRA Department of Enforcement