

**INVESTORS EXCHANGE LLC
NOTICE OF ACCEPTANCE OF AWC**

Via Certified Mail, Return Receipt Requested (7020 0640 0001 3903 8672), First Class Mail and Email (tony.taggart@morganstanley.com)

TO: S. Anthony Taggart, Managing Director and Counsel
E*TRADE Securities LLC
c/o John Sakhleh, Esq.
Sidley Austin LLP
1501 K Street, N.W.
Washington, D.C. 20005

FROM: Investors Exchange LLC (“IEX”)
c/o Financial Industry Regulatory Authority
Department of Enforcement
Brookfield Place
200 Liberty Street, 11th Floor
New York, NY 10281

DATE: January 11, 2022

RE: Acceptance of Letter of Acceptance, Waiver, and Consent (AWC)
E*TRADE Securities LLC, CRD No. 29106, Matter No. 2014039952905

Please be advised that your above-referenced Letter of Acceptance, Waiver and Consent (“AWC”) has been accepted on **January 10, 2022** by the Office of Disciplinary Affairs, on behalf of the IEX Board, pursuant to IEX Rule 9.216. A copy of the AWC is enclosed herewith.

You are again reminded of your obligation, if currently registered, immediately to update your Form BD (Uniform Application for Broker-Dealer Registration) to reflect the conclusion of this disciplinary action. Additionally, you must also notify FINRA in writing of any change of address or other changes required to be made to your Form BD.

You are reminded of your obligation to comply with the undertaking in the AWC.

You will be notified by the Registration and Disclosure Department regarding sanctions if a suspension has been imposed and by the IEX’s Finance Department regarding the payment of any fine if a fine has been imposed.

If you have any questions concerning this matter, please call Doria Bachenheimer, Principal Counsel, at 646-315-8329.

Doria Bachenheimer

Doria Bachenheimer
Principal Counsel
Department of Enforcement, FINRA

Signed on behalf of IEX

Enclosure

**INVESTORS EXCHANGE LLC
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2014039952905**

TO: Investors Exchange LLC
c/o Department of Enforcement
Financial Industry Regulatory Authority (“FINRA”)

RE: E*TRADE Securities LLC, Respondent
Broker-Dealer
CRD No. 29106

Pursuant to Rule 9.216 of the Investors Exchange LLC (“IEX”) Code of Procedure, E*TRADE Securities LLC (“E*TRADE” 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, IEX 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 IEX, or to which IEX 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 IEX:

BACKGROUND

E*TRADE has been a FINRA member since February 1992 and has been registered with the IEX since November 2016. Its principal place of business is Jersey City, New Jersey. E*TRADE provides brokerage services, primarily online securities investing and trading services, to individual retail customers. It has over 2,100 registered persons and 40 branches. The firm has no relevant disciplinary history.

SUMMARY

1. During the period October 2018 through November 2021 (the “review period”), E*TRADE failed to establish and maintain a supervisory system that was reasonably designed to achieve compliance with applicable securities laws and regulations, and with

applicable IEX rules, related to detecting potentially manipulative intraday trading by its customers.

FACTS AND VIOLATIVE CONDUCT

2. This matter originated from reviews conducted by FINRA's Market Regulation Department.

E*TRADE failed to establish and maintain a supervisory system reasonably designed to detect manipulative trading.

3. IEX Rule 3.110 requires that "[a] Member, in the conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade."
4. IEX Rule 5.110 provides that "[e]ach Member shall establish and maintain a system to supervise the activities of each associated person that is reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable IEX Rules. Final responsibility for proper supervision shall rest with the Member."
5. During the review period, E*TRADE's surveillance system was not reasonably designed to detect certain types of potentially manipulative trading. Specifically, E*TRADE did not have surveillance reasonably designed to detect trading that artificially increased or decreased the price of thinly traded stocks, such as when a customer attempted to artificially influence the price of a security by effecting a series of buy transactions within a short period of time to create the false appearance of trading interest and activity in the security, followed shortly thereafter by transactions on the opposite side of the market to reap profits from an artificially increased price. Further, while E*TRADE used surveillance reports to detect potential intraday manipulative trading, the parameter settings of these reports were not reasonably designed to detect the aforementioned activity. For example, the reports would only flag a pattern of trading for review if the trades executed on both sides of the market were executed within a one-second window and only if the accounts involved held at least ten percent of the shares outstanding at E*TRADE in that security at the end of the trading day. However, this type of potentially manipulative trading activity could occur over several minutes and in accounts that had reduced their positions below the ten percent threshold during the day. Additionally, E*TRADE's surveillance reports only flagged such a trading pattern as potentially manipulative if the pattern included cancelled orders, even though customers can manipulate the price of a security without cancelling orders.
6. As a result of the foregoing, E*TRADE failed to establish and maintain a system that was reasonably designed to achieve compliance with applicable federal securities laws and regulations and IEX rules relating to potentially manipulative intraday trading, in violation of IEX Rules 3.110 and 5.110.

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

- A censure;
- A total fine in the amount of \$350,000, of which \$18,000 is payable to IEX;¹ and
- Within 180 days of the Notice of Acceptance of the AWC, or such additional period based on a showing of good cause as agreed to by a FINRA staff member in writing, a principal of the firm shall submit to the COMPLIANCE ASSISTANT, DEPARTMENT OF ENFORCEMENT, 15200 OMEGA DRIVE, SUITE 300, ROCKVILLE, MD 20850, a signed, dated letter, or an email from a work-related account of the registered principal to MarketRegulationComp@finra.org providing the following information: (1) a reference to this matter; and (2) a representation that the firm has implemented a supervisory system reasonably designed to detect the potentially manipulative trading activity described in this AWC.

The firm agrees to pay the monetary sanction in accordance with its executed Election of Payment Form.

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 IEX's Code of Procedure:

- A. To have a Formal Complaint issued specifying the allegations against the firm;
- B. To be notified of the Formal 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 IEX Appeals Committee 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, Chief Regulatory Officer, the IEX Appeals Committee, or any member of the IEX Appeals Committee, in connection with such person's or body's participation in discussions

¹ The remainder of the fine shall be allocated to FINRA, The Nasdaq Stock Market LLC, NYSE Arca, Inc., and Cboe EDGX Exchange, Inc. for similar violations.

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 Rule 9.143 or the separation of functions prohibitions of Rule 9.144, 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 FINRA's Department of Enforcement and the Office of Disciplinary Affairs ("ODA"), pursuant to IEX Rule 9.216;
- 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 IEX or any other regulator against the firm;
 - 2. IEX may release this AWC or make a public announcement concerning this agreement and the subject matter thereof in accordance with IEX Rule 8.340; and
 - 3. 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 IEX, or to which IEX is a party, that is inconsistent with any part of this AWC. Nothing in this provision affects the firm (i) testimonial obligations; or (ii) right to take legal or factual positions in litigation or other legal proceedings in which IEX 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. Any such Statement does not constitute factual or legal findings by IEX, nor does it reflect the views of IEX or its staff.

ELECTION OF PAYMENT FORM

The firm intends to pay the fine proposed in the attached Letter of Acceptance, Waiver and Consent by the following method (check one):

- A firm check or bank check for the full amount
- Wire transfer

Respectfully submitted,

E*TRADE Securities LLC
Respondent

December 23, 2021

Date

By: S. Anthony Taggart

Name: S. Anthony Taggart

Title: Managing Director and Counsel