



## Notice, Pursuant to Exchange By-law 18-2, of Disciplinary Action Against Gradient Trading, LLC, Former Member Organization

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**To:** Members, Member Organizations, Participants and Participant Organizations

**From:** Mark Schepps, Chief Enforcement Counsel, NASDAQ OMX PHLX<sup>SM</sup>

**DATE:** April 9, 2009

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### **NASDAQ OMX PHLX No. 09-06 Enforcement No. 2009-06**

On April 8, 2009, the Business Conduct Committee (the "Committee") issued a disciplinary decision against Gradient Trading, LLC ("Gradient"), a former member organization of the Exchange. In response to a Statement of Charges issued in this action, Gradient submitted an Offer of Settlement, Stipulation of Facts and Consent to Sanctions ("Offer"). Solely to settle this proceeding, and without admitting or denying the charges, Gradient consented to findings that it violated Sections 15 and 17 of the Securities Exchange Act of 1934, as amended ("Exchange Act"), Rules 15b3-1, 17a-3, 17a-5 and Rule 200(g) of Regulation SHO promulgated thereunder, and Exchange Rules 703, 760, and 761, by failing to: (i) keep accurate books and records and file an accurate Financial and Operational Combined Uniform Single report with the Exchange; (ii) amend properly its Form BD in the Central Registration Depository database maintained by the Financial Industry Regulatory Authority; (iii) mark properly numerous equity securities as "sell long" or "sell short" in compliance with the applicable order marking requirements of Regulation SHO promulgated under the Exchange Act; and (iv) document its monthly review of all of its employees' personal trading accounts, and to ensure that all required trading accounts were on its ITSFEA Accounts List. Gradient's Offer was accepted by the Committee and was the basis of its decision.

The Committee found that Gradient violated Sections 15 and 17 of the Exchange Act, Rules 15b3-1, 17a-3, 17a-5 and Rule 200(g) of Regulation SHO promulgated thereunder, and Exchange Rules 703, 760, and 761, concurred in the sanctions consented to by it, and ordered the imposition of the following sanctions: (i) a censure and (ii) a fine of \$2,500.

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For more information, contact:

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