



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

To: Members, Member Organizations, Participants and Participant Organizations
From: Mark Schepps, Chief Enforcement Counsel, NASDAQ OMX PHLXSM
DATE: May 19, 2009

NASDAQ OMX PHLX No. 09-14 Enforcement No. 2009-19

On May 12, 2009, the Business Conduct Committee (the "Committee") issued a disciplinary decision against Gradient Trading, LLC ("Gradient" or the "Firm"), 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 Rule 200(g) of Regulation SHO promulgated under the Securities Exchange Act of 1934, as amended ("Exchange Act") and Exchange Rules 604 and 761 by: (i) marking improperly one hundred eleven (111) orders as "sell shorts" orders when the orders were, in fact, "sell long" orders; (ii) marking improperly three hundred fifty-eight (358) orders as "sell long" when the orders were, in fact, "sell short" orders; (iii) failing to register with the Web Central Registration Depository database maintained by the Financial Industry Regulatory Authority the names and fingerprint records of a Non-Registered Fingerprint Person associated with the Firm; and (iv) failing to ensure that a Covered Account was included on the ITSFEA Accounts List of two (2) employees and to document whether it had reviewed one or more Covered Accounts on the ITSFEA Accounts Lists of five (5) employees and/or members of their household.

The Committee found that Gradient violated Rule 200(g) of Regulation SHO promulgated under the Exchange Act and Exchange Rules 604 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 \$7,500.

For more information, contact:

- [Mark Schepps](#), Chief Enforcement Counsel, NASDAQ OMX PHLX, at +1 215 496 5153