

BEFORE THE DIRECTOR OF THE DEPARTMENT OF FINANCE
OF THE STATE OF IDAHO

In the matter of

E*TRADE SECURITIES LLC

Respondent.

Docket No. 2012-7-12

ADMINISTRATIVE CONSENT ORDER

WHEREAS, E*TRADE Securities LLC (“Respondent”) is a broker-dealer registered in the state of Idaho; and

WHEREAS, Respondent’s activities regarding the sale of auction rate securities (“ARS”) have been the subject of coordinated investigations conducted by a multi-state task force; and

WHEREAS, Respondent has provided documentary evidence and other materials and provided regulators with access to information relevant to their investigations; and

WHEREAS, on October 18, 2011 Respondent and the multi-state task force reached an agreement to resolve the investigations relating to Respondent’s sale of auction rate securities to certain customers; and

WHEREAS, Respondent agrees, among other things, to purchase certain auction rate securities from customers and to make certain payments; and

WHEREAS, Respondent elects to waive permanently any right to a hearing and appeal under Idaho Code 30-14-604(b) and (c) and chapter 67, title 52 of the Idaho Code, with respect to this Administrative Consent Order (the “Order”); and

WHEREAS, Respondent admits the jurisdiction of the Idaho Department of Finance (“Administrator”) and consents to the entry of this Order by Administrator; and

WHEREAS, Respondent has voluntarily agreed to purchase, or arrange to have purchased, auction rate securities from certain customers, as described in Section IV below; and

WHEREAS, Respondent neither admits nor denies the Findings of Fact and Conclusions of Law contained in this Order.

NOW, THEREFORE, the Administrator, as administrator of the Uniform Securities Act (2004) (“Act”), hereby enters this Order:

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I.

RESPONDENT

1. Respondent (**CRD #29106**) was, at all times material herein, a limited liability company organized under the laws of Delaware with its principal place of business in New York, New York.

II.

FINDINGS OF FACT

2. Respondent is in the business of effecting transactions in securities in Idaho as a "broker-dealer" within the meaning of the Act.

3. Respondent has customers located across the United States of America, including Idaho.

4. Respondent's business model centers upon customers who use the firm's website to buy and sell securities, generally known as on-line stock trading.

5. Although Respondent is an on-line trading firm, it also has about 30 branch offices across the country, at least some of which were purchased from earlier on-line trading firms.

6. Despite the focus of its business model upon on-line retail trading, Respondent maintained fewer than 20 "financial advisors" (FAs) who were authorized to provide investment advice to clients regarding ARS. The FAs are assigned to an Investment Specialist Group supervised by a branch manager. The FAs are alternatively referred to herein as investment specialists or registered representatives.

7. Respondent's FAs are permitted to recommend only those types of investments that have been previously approved by Respondent's management.

ARS

8. ARS, or auction rate securities, are fixed income long-term securities whose dividend rates are reset periodically at Dutch-style auctions that take place at set intervals, typically every 7, 28, or 35 days.

9. ARS are considered non-conventional investments (NCIs) in that they do not fall in the traditional categories of stocks, bonds, or mutual funds.

1 10. ARS were introduced to the market in 1984 as a way for issuing entities to diversify
2 their investor base and in the process lower their borrowing costs. ARS essentially allowed issuers
3 to achieve long-term financing at short-term interest rates.

4 11. As of the end of 2007, there were approximately \$330 billion of ARS outstanding.
5 Three categories of issuers dominated the market. Municipalities accounted for approximately half
6 the market. Student loan trusts made up approximately 25% of the market. Closed-end mutual bond
7 funds, seeking to leverage their portfolios by issuing preferred shares, made up approximately 20%
8 of the market.

9 12. Initially, a high minimum investment precluded all but institutions from purchasing
10 ARS. However, as the minimum investment declined to \$25,000, wealthy retail investors became a
11 significant source of demand for the product.

12 13. ARS are designed to trade at a set price (par value) of \$25,000 per unit, but the
13 interest rate fluctuates based upon bids made at periodic auctions. The rate that is sufficient to clear
14 all the ARS offered for sale at any given auction is known as the "clearing rate." The clearing rate,
15 however, cannot exceed the instrument's maximum or default interest rate (also known as the
16 "penalty" rate), which is typically pegged to a short term index such as the LIBOR. If, at any given
17 auction, the rate necessary to clear all shares for sale exceeds the maximum rate, then the auction
18 "fails" and the maximum rate becomes the rate of interest the ARS earns until the next successful
19 auction, at which time the rate is reset during the bidding process.

20 14. As is generally the case in the capital markets, issuers and investors are connected
21 via intermediaries or financial institutions that serve in various capacities in the ARS marketplace.
22 The major roles of intermediaries in the ARS market are: (1) large broker-dealers who act as ARS
23 underwriters and often also serve as auction dealers, (2) auction agents selected by the underwriters
24 to collect orders and match buyers with sellers, (3) major broker-dealers who trade in ARS and act
25 as wholesalers, and (4) downstream broker-dealers who place retail customer orders through the
26 wholesalers trading in ARS.

 15. Respondent did not perform any of the major intermediary functions identified as
(1) through (3) above. Rather, from 2003 to February 2008, it acted as a downstream broker-dealer
that relayed retail customer orders to Oppenheimer & Co., which was a wholesaler trading in
Auction Rate Preferred Securities ("ARPS"). Oppenheimer then transmitted Respondent's customer
orders to auction dealers to complete the purchase or sale.

ARPS

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2 16. Of the types of ARS that were available from 2003 through February 2008,
3 Respondent generally sold ARPS to its customers. ARPS are preferred stock issued by closed-end
4 mutual funds. Because ARPS are preferred shares, they have no maturity date and there is no
5 obligation upon the issuer to redeem shares on demand. Therefore, their period of existence is "in
6 perpetuity."

7 17. Prior to February 2008 when the market for ARS (including ARPS) collapsed,
8 ARPS were generally perceived to be a relatively safe and liquid fixed income investment. The
9 primary benefit was a higher rate of interest than could typically be achieved by investing in
10 Treasury bills or money market accounts. As a general rule, ARPS could be expected to pay a rate
11 of at least 50 basis points, or one-half percent interest, in excess of what a money market account
12 was paying at the same time.

13 18. ARPS were seen as a relatively safe credit risk because, by law, issuers had to
14 maintain reserves sufficient to cover twice the amount of money outstanding in issued ARPS. If
15 reserves fell below that amount, issuers were required by law to either increase their reserves or
16 redeem sufficient ARPS to restore the 200% ratio. Because of these and other factors, credit rating
17 agencies typically gave ARPS high credit ratings.

18 19. Respondent chose to offer for sale only those ARPS that carried an AAA credit
19 rating, which is the highest rating awarded by the credit rating agencies.

20 20. Liquidity risk is different from credit risk, and an AAA credit rating does not speak
21 to the security's liquidity risk. Liquidity means the ability to sell a security quickly at the par value.
22 Liquidity risk, therefore, is the possibility that an ARPS cannot be sold or traded upon demand.
23 Thus, although an ARPS might have a low credit risk because the issuer is financially sound and is
24 likely to continue to make the required interest payments, the ARPS might have high liquidity risk
25 if, for whatever reason, it cannot be sold or otherwise liquidated quickly. Liquidity risk is an
26 important feature of a security because, even if the security has good credit risk, it may have little
value to an investor if the investor cannot sell it when necessary.

Respondent's Sale of ARPS

21. Due to their relative safety in terms of credit risk and perceived liquidity,

1 Respondent chose to engage in the sale of ARPS to its retail customers, but generally eschewed
2 sale of riskier types of ARS, especially those involving debt backed securities.

3 22. Contrary to its practice of making traditional stocks, bonds and mutual funds
4 available for sale on line, Respondent opted to sell ARPS only through its FAs. A customer
5 seeking financial advice might have called directly or have been referred to an FA by a local
6 E*Trade office, or alternatively, an FA might have initiated a call to a particular customer if the FA
7 felt that the customer had a particular need. For example, an FA who noticed that a client had a
8 large cash account balance might have called the client to suggest moving the cash to an
9 investment with a better rate of return.

10 23. Procedurally, when an FA received a buy or sell order from a client, the FA
11 completed a trade ticket and forwarded it to the Fixed Income Desk located in the same office. The
12 Fixed Income Desk then forwarded the buy or sell order to the intermediary broker-dealer,
13 Oppenheimer & Co. Oppenheimer then aggregated the various buy and sell orders received from
14 all client broker-dealers and forwarded them to the auction agent for presentation at the next
15 available auction.

16 24. If the auction was successful and the buy or sell order was executed, a trade
17 confirmation was prepared and forwarded back to the investor.

18 25. In recommending ARPS for investors' consideration, certain FAs described ARPS
19 as "7-day paper" with "daily liquidity" that was as safe as a money market account. Although FAs
20 also referred to ARPS as "auction rate preferreds," they rarely if ever explained that ARPS were in
21 fact long-term securities that could only be sold at auction, nor mentioned that if an auction failed
22 ARPS would lose liquidity.

23 The Dutch Auction Process

24 26. ARS, including ARPS, are not traded on the New York Stock Exchange or any
25 other open securities exchange. Rather, ARS (including ARPS) were, prior to the ARS market
26 collapse in February 2008, traded through a "Dutch auction" process.

27 27. If, at any given auction, there are insufficient buyers to purchase all the ARS
28 available for sale at a clearing rate below the maximum rate, the auction is said to have "failed." An
29 investor who has been unable to sell his or her ARS at a failed auction must then wait until the next

1 periodic auction to again offer them for sale. Until the ARS are sold at a successful auction, the
2 interest rate paid on that ARS is the maximum or default rate.

3 28. Because ARS are typically long-term instruments, and in the case of ARPS are of
4 perpetual maturity, their liquidity depends upon the ability of holders to sell the instruments at
5 auction. If auctions fail, or if the auction process collapses entirely as it did in February 2008,
6 liquidity is severely impaired.

7 29. Because there is no established market for ARS apart from the auction process,
8 there is limited ability to liquidate ARS outside that process. The ARS issuer may decide to redeem
9 those shares if it is economically advantageous to do so, but there is no obligation upon issuers to
10 do so. Alternatively, an ARS holder may be able to arrange a sale on an ad hoc basis outside the
11 auction process. However, such sales are on a case by case basis and often involve discounts to the
12 par value of the ARS, resulting in a financial loss to the holder.

13 30. Consequently, the liquidity of ARS (including ARPS) depended upon the continued
14 success of the Dutch auction process.

15 **Collapse of the Dutch Auction Process**

16 31. The Dutch auction process functioned with very few auction failures for many years
17 after the introduction of ARS in 1984. Over the years, there had been approximately 13 auction
18 failures, typically arising when an issuer lost its creditworthiness, thus eliminating buyer interest in
19 that security. However, prior to February 2008, there had not been an ARPS auction failure nor
20 had there been a total collapse of the ARS auction market.

21 32. Beginning in August 2007, deteriorating economic conditions and tightening credit
22 markets caused a strain on the ARS market, resulting in a number of ARS auction failures.
23 However, prior to February 2008, these failures did not involve the ARPS auction markets because
24 ARPS were generally considered safer and more creditworthy investments.

25 33. However, in February 2008, an event occurred that caused the wholesale collapse of
26 the ARS auction market, including ARPS. The triggering event was the decision by a major
underwriter, Goldman-Sachs, to stop submitting cover bids. Large underwriters, like Goldman-
Sachs, found that due to deteriorating financial conditions, they could no longer afford to carry
large balances of ARS on their books and thus they stopped buying ARS for their own accounts.

1 Once Goldman-Sachs stopped submitting cover bids at auction, all the other large underwriters
2 followed suit.

3 34. Without the support of the large underwriters, insufficient buy bids were received at
4 most auctions to cover all the ARS offered for sale, and as a result the auction market totally
5 collapsed. The ARPS auction market was particularly hard hit because the maximum, or default,
6 rates for ARPS were generally very low and therefore there was insufficient investor interest to
7 sustain the market in the absence of the underwriter's cover bids.

8 35. As of February 13, 2008, Respondent's investors nationwide held a balance of
9 approximately \$581 million in ARPS, and approximately \$870 million altogether in the ARS
10 market, that had lost liquidity as the result of the collapse of the auction process.

11 Failure to Supervise

12 36. Respondent had a policy of hiring experienced FAs who, presumably, had been
13 trained by other employers with regard to the securities they handled. However, Respondent
14 provided no formal training to its FAs with respect to ARPS.

15 37. Respondent's FAs were directly supervised by a branch manager whose supervisory
16 responsibilities were set out in Branch Policies and Procedures manuals. In addition, FAs were
17 provided with a Registered Representatives Manual that governed their professional practice.
18 None of these documents specifically addressed the need for FAs to advise ARPS customers of the
19 risks of auction failure and loss of liquidity. Respondent maintained a policy of reviewing FA-
20 investor phone conversations and account records on a random basis and providing feedback.
21 Despite these supervisory reviews, FAs continued to advise ARPS investors that ARPS were
22 highly liquid "7-day paper," without the additional context that ARPS were in fact long term
23 instruments that could only be liquidated at successful Dutch-style auctions.

24 38. Even when the significant risk of auction failure with regard to other types of ARS
25 became apparent, FAs were not instructed to provide any warning about the risk of ARPS
26 illiquidity.

39. Respondent should have known that its FAs marketed ARS to customers as highly
liquid and as an alternative to cash or money market funds without adequately disclosing that ARS
are complex securities that may become illiquid.

1 40. In connection with the marketing of ARS, Respondent failed to adopt policies and
2 procedures reasonably designed to ensure that its FAs recommended ARS only to customers who
3 had stated investment objectives that were consistent with their purchase of ARS. Some of
4 Respondent's FAs recommended ARS to customers as a liquid, short-term investment. As a result,
5 some of Respondent's customers who needed short-term access to funds invested in ARS even
6 though ARS had long-term or no maturity dates.

7 **III.**
8 **CONCLUSIONS OF LAW**

9 41. The Administrator has jurisdiction over this matter pursuant to Idaho Code 30-14-
10 101, et seq.

11 42. By engaging in the acts and conduct set forth in paragraphs II.2 through II.40,
12 Respondent failed to reasonably supervise its financial advisors in connection with the marketing
13 of ARS to its customers, in violation of IDAPA 12.01.08.105.01.

14 **IV.**
15 **ORDER**

16 On the basis of the Findings of Fact, Conclusions of Law, and Respondent's consent to the
17 entry of this Order, without admitting or denying the facts or conclusions herein,

18 IT IS HEREBY ORDERED:

19 1. This Order concludes the investigation by the Administrator and staff and precludes
20 any other action that the Administrator or staff could commence against the Respondent under
21 applicable Idaho law on behalf of the State of Idaho as it relates to Respondent's sale of auction
22 rate securities prior to February 13, 2008.

23 2. This Order is entered into solely for the purpose of resolving the above-referenced
24 multi-state investigation, and is not intended to be used for any other purpose.

25 3. Respondent shall cease and desist from violating IDAPA 12.01.08.105.01 and will
26 comply with IDAPA 12.01.08.105.01.

27 4. Within 10 days from the entry of this Order, Respondent shall pay the sum of
28 \$15,455.75 to the Idaho department of finance, securities and investor education training fund,
29 which amount constitutes Idaho's proportionate share of the total state settlement amount of

1 \$5,000,000.00. In the event another state securities regulator determines not to accept
2 Respondent's settlement offer, the total amount of the payment to the state of Idaho shall not be
3 affected.

4 5. Respondent shall take certain measures with respect to current and former
5 customers with respect to "Eligible Auction Rate Securities", as defined below in Paragraph IV.6.

6 6. "Eligible Auction Rate Securities." For purposes of this Order, "Eligible Auction
7 Rate Securities" means auction rate securities that Respondent's customers purchased through
8 Respondent, or through an entity acquired by Respondent, on or before February 13, 2008, and that
9 have failed at auction at least once since February 13, 2008.

10 7. "Eligible Investors". For purposes of this Order, "Eligible Investors," shall mean
11 the following:

12 (a) Current and former account holders who purchased Eligible Auction Rate Securities
13 through Respondent on or before February 13, 2008, whether or not such Eligible Auction Rate
14 Securities were transferred away from Respondent, and held those securities on February 13, 2008.

15 (b) As for customers who purchased Eligible Auction Rate Securities from an entity
16 acquired by Respondent, only those customers who became customers of Respondent and
17 transferred their ARS holdings to Respondent following the acquisition shall be considered
18 "Eligible Investors."

19 8. Not Included In the Definition of "Eligible Investors." "Eligible Investors" for the
20 purposes of this Order, shall not include the following:

21 (a) Senior management of Respondent and its predecessors or Respondent's financial
22 advisors/registered representatives.

23 (b) Customers who, as a result of prior legal proceedings with E*TRADE, have
24 previously had claims adjudicated.

25 (c) Customers who received par value for their ARS through a sale, issuer redemption,
26 or payment from Respondent.

27 9. Purchase Offer. Respondent shall offer to purchase (or offer to arrange a third party
28 to purchase), at par plus accrued and unpaid dividends/interest, from Eligible Investors their
29 Eligible Auction Rate Securities that have failed at auction at least once since February 13, 2008
30 (the "Purchase Offer").

31 10. Notification and Buyback Procedures.

1 a. Respondent created a written notice related to the Purchase Offer (the "Notice").
2 The Notice explains the relevant terms of this Order and described what Eligible Investors must do
3 to accept, in whole or in part, the Purchase Offer, including how Eligible Investors may accept the
4 Purchase Offer.

4 b. Initial Notice

5 i. Respondent provided a Notice to Eligible Investors who purchased Eligible
6 Auction Rate Securities with Respondent by January 16, 2012.

7 ii. Furthermore, by January 16, 2012, Respondent undertook its best efforts to
8 identify and locate customers who purchased Eligible Auction Rate Securities with Respondent but
9 who transferred such Eligible Auction Rate Securities away from Respondent between February
10 13, 2008 and November 16, 2011. Respondent provided any such customers the Purchase Offer
11 described in Section IV.9, the Notification and Buyback Procedures described in Section IV.10,
12 and the other terms described in Sections IV.11, IV.12, and IV.13.

11 c. Second Notice

12 With respect to each Eligible Investor that Respondent sent the Notice required by
13 Paragraph IV.10.b above and who did not respond, Respondent provided a second copy of the
14 Notice on or before March 30, 2012.

15 d. Offer Period

16 i. Respondent kept the Purchase Offer open until May 15, 2012 ("Offer
17 Period").

18 ii. Eligible Investors could accept the Purchase Offer by notifying Respondent
19 as described in the Purchase Offer, at any time before 11:59 P.M. Eastern Time, on or before the
20 last day of the Offer Period. For those Eligible Investors who accepted the Purchase Offer within
21 the Offer Period, Respondent purchased or arranged to have purchased their Eligible Auction Rate
22 Securities by no later than five (5) business days following Respondent's receipt of such Eligible
23 Investor's acceptance.

24 e. An Eligible Investor could revoke his acceptance of Respondent's Purchase Offer at
25 any time up until Respondent's purchase of such Eligible Investor's Eligible Auction Rate
26 Securities.

25 f. Respondent's obligation to those Eligible Investors who transferred their Eligible
26 Auction Rate Securities away from Respondent prior to November 16, 2011 shall be contingent on:
(1) Respondent receiving reasonably satisfactory assurances from the financial institution currently

1 holding the Eligible Investor's Eligible Auction Rate Securities that the bidding rights associated
2 with such Eligible Auction Rate Securities will be transferred to Respondent; and (2) the transfer
3 to, and receipt in good order by, Respondent of Eligible Auction Rate Securities.

4 g. Respondent represents it has used its best efforts to identify, contact and assist any
5 Eligible Investor who has transferred the Eligible Auction Rate Securities out of Respondent's
6 custody in returning such Auction Rate Securities to Respondent's custody, and has not charged
7 such Eligible Investor any fees relating to or in connection with the return to Respondent or
8 custodianship by Respondent of such Eligible Auction Rate Securities.

9 11. Customer Assistance. Respondent established a dedicated toll-free telephone
10 assistance line and website to provide information and to respond to questions concerning the terms
11 of this Order, and to provide information concerning the terms of this Order and, via an e-mail
12 address or other reasonable means, to respond to questions concerning the terms of this Order.
13 Respondent maintained the telephone assistance line until August 16, 2012.

14 12. Relief for Eligible Investors Who Sold Below Par. Respondent represents it used its
15 best efforts to identify each Eligible Investor who: (i) purchased Eligible Auction Rate Securities
16 from Respondent on or before February 13, 2008; and (ii) who sold those Eligible Auction Rate
17 Securities below par between February 13, 2008 and November 16, 2011 ("Below Par Sellers").
18 By January 31, 2012, Respondent paid each Below Par Seller the difference between par and the
19 price at which the Below Par Seller sold the Eligible Auction Rate Securities, plus reasonable
20 interest thereon. Furthermore, Respondent paid promptly the difference between par and the price
21 at which the Below Par Seller sold the Eligible Auction Rate Securities, plus reasonable interest
22 thereon to any Below Par Sellers identified after January 31, 2012.

23 13. Consequential Damages Arbitration Process.

24 a. Respondent shall consent to participate in a special arbitration process
25 ("Arbitration") for the exclusive purpose of arbitrating any Eligible Investor's consequential
26 damages claim arising from their inability to sell Eligible Auction Rate Securities. In the
Arbitration, the Special Arbitration Process applicable to firms that have entered into settlements
with state regulators (the "State SAP") will be available for the exclusive purpose of arbitrating any
Eligible Investor's consequential damages claim. By January 16, 2012, Respondent notified
Eligible Investors of the terms of the Arbitration process through the Notice as set forth in
Paragraph IV.10.b.

1 b. The Arbitration shall be conducted under the auspices of FINRA, pursuant to the
2 NASD Code of Arbitration Procedures for Customer Disputes, eff. April 16, 2007. Respondent
3 will pay all applicable forum and filing fees.

4 c. Any Eligible Investors who choose to pursue such claims in the Arbitration shall
5 bear the burden of proving that they suffered consequential damages and that such damages were
6 caused by their inability to access funds invested in Eligible Auction Rate Securities. In the
7 Arbitration, Respondent shall be able to defend itself against such claims; provided, however, that
8 Respondent shall not contest liability for the illiquidity of the underlying auction rate securities
9 position or use as part of its defense any decision by the Eligible Investor not to borrow money
10 from Respondent.

11 d. Eligible Investors who elect to use the Arbitration provided for herein shall not be
12 eligible for punitive damages, or for any other type of damages other than consequential damages.
13 However, the State SAP will govern the availability of attorney's fees.

14 14. Loan Interest Expense.

15 By January 16, 2012, Respondent represents it used its best efforts to identify Eligible
16 Investors that obtained a loan through Respondent (or its affiliates) secured by Eligible Auction
17 Rate Securities that were not successfully auctioning at the time the loan was taken and who paid
18 more in interest on the loan than the Eligible Investor received in interest or dividends from the
19 Eligible Auction Rate Securities during the time the loan was outstanding ("Negative Carry").
20 Respondent, on or before January 16, 2012, represents it has reimbursed the Eligible Investor the
21 amount of Negative Carry actually paid.

22 15. Reports and Meetings

23 a. Respondent shall submit quarterly reports to the Colorado Division of Securities
24 detailing Respondent's progress with respect to the provisions of this Order within ten (10) days
25 from the month when a quarterly report is due, beginning with a report covering the quarter ending
26 December 31, 2011 and continuing through and including a report covering the quarter ending
December 31, 2012.

 b. Beginning December 21, 2011, Respondent shall confer via telephone at least
quarterly with the Colorado Division of Securities regarding Respondent's progress with respect to
the provisions of this Order. Such quarterly telephone conferences shall continue until December
31, 2012.

1 c. The reporting and telephone conference deadlines set forth above may be amended
or modified with written permission from the Colorado Division of Securities.

2 d. At the conclusion of the Purchase Offer, Respondent shall provide a report to the
3 Colorado Division of Securities concerning all customers nationwide impacted by Respondent's
4 Purchase Offer and/or reimbursement to those who sold below par.

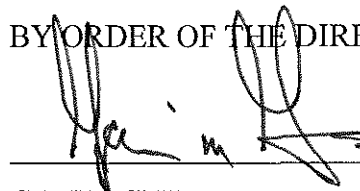
5 16. This Order is not intended to indicate that Respondent or any of its affiliates or
6 current or former officers, directors, trustees, agents, members, partners, or employees (and of any
7 of Respondent's parent companies, subsidiaries or affiliates) shall be subject to any
8 disqualifications contained in the federal securities laws, the rules and regulations thereunder, the
9 rules and regulations of self regulatory organizations or various states' securities laws including
10 any disqualifications from relying upon the registration exemptions or safe harbor provisions. In
addition, this Order is not intended to form the basis for any such disqualifications.

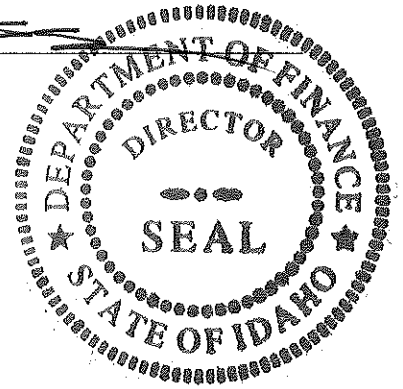
11 17. Except in an action by the State of Idaho to enforce the obligations of Respondent in
12 this Order, this Order may neither be deemed nor used as an admission of or evidence of any
13 alleged fault, omission or liability of Respondent in any civil, criminal, arbitration or administrative
14 proceeding in any court, administrative agency or tribunal. For any person or entity not a party to
15 this Order, this Order does not limit or create any private rights or remedies against Respondent or
16 any of its affiliates or current or former officers, directors, trustees, agents, members, partners, or
17 employees (and of any of Respondent's parent companies, subsidiaries or affiliates) including,
18 without limitation with respect to the use of any emails or other documents of Respondent or of
others concerning the marketing and/or sales of auction rate securities, limit or create liability of
Respondent, or limit or create defenses of Respondent to any claims.

19 18. This Order is not intended to disqualify Respondent or any of its affiliates or current
20 or former officers, directors, trustees, agents, members, partners, or employees (and of any of
21 Respondent's parent companies, subsidiaries or affiliates) from any business that they otherwise
22 are qualified or licensed to perform under applicable state securities law and this Order is not
23 intended to form the basis for any disqualification. This Order may not be read to indicate that
24 Respondent or any of its affiliates or current or former officers, directors, trustees, agents,
25 members, partners, or employees (and of any of Respondent's parent companies, subsidiaries or
26 affiliates) engaged in fraud or to serve as the basis for any future independent action to establish a
violation of any federal laws, the rules or regulations thereunder, or the rules and regulations of
self-regulatory organizations.

1 DATED this 21st day of Sept, 2012.

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3 BY ORDER OF THE DIRECTOR

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6 GAVIN GEE
7 Director of Finance



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15 **CONSENT TO ENTRY OF ADMINISTRATIVE ORDER BY E*TRADE SECURITIES**
16 **LLC**

17 E*TRADE Securities LLC ("Respondent") hereby acknowledges that it has been served with
18 a copy of this Consent Order, has read the foregoing Order, is aware of its right to a hearing and
19 appeal in this matter, and has waived the same.

20 Respondent admits the jurisdiction of the Administrator, neither admits nor denies the
21 Findings of Fact and Conclusions of Law contained in this Order, and consents to entry of this Order
22 by Administrator as settlement of the issues contained in this Order.

23 Respondent shall not claim, assert, or apply for a tax deduction or tax credit with regard to
24 any state, federal, or local tax for any administrative monetary payment that Respondent shall pay
25 pursuant to this Order.

26 Respondent states that no promise of any kind or nature whatsoever was made to it to induce it
to enter into this Order and that it has entered into this Order voluntarily.

James E. Ballouey, Jr represents that he/she is General Counsel, Brokerage of E*TRADE Securities

1 LLC and that, as such, has been authorized by E*TRADE Securities LLC to enter into this Order for
2 and on behalf of E*TRADE Securities LLC

3 DATED this 13th day of September, 2012.

4 E*TRADE SECURITIES LLC

5 By: James E. Ballew, Jr.

6 Title: General Counsel, Brokerage

7 STATE OF Virginia)

8 County of Arlington)

9 SUBSCRIBED AND SWORN TO before me this 13th day of September,
10 2012.

11 Christopher A. Harsh

12 Notary Public

13 My commission expires:

14 May 31, 2016

