



## NEWS RELEASE

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### **Colorado Securities Commissioner Announces Settlement of its Auction Rate Securities Enforcement Action against E\*TRADE**

Colorado Securities Commissioner Fred Joseph announced today that a settlement in principle has been reached between E\*TRADE Securities, LLC, and the Colorado Division of Securities settling its enforcement action against E\*TRADE related to its sale of auction rate securities to Colorado investors. Under the settlement agreement, E\*TRADE agreed to buy back approximately \$3.5 million worth of auction rate securities from Colorado investors who found themselves unable to sell their securities after they had been frozen in the auction rate securities ("ARS") market. The settlement also includes a broader agreement by E\*TRADE to return approximately \$100 million to the firm's clients on a nationwide basis.

The settlement concludes the Division's enforcement action initiated to sanction E\*TRADE's license in Colorado for alleged violations of the Colorado Securities Act in connection with the sale of auction rate securities to Colorado investors. A hearing was held before Administrative Law Judge Robert Spencer beginning June 6, 2011. On August 12, 2011, Judge Spencer issued his initial decision finding that E\*TRADE willfully misrepresented material facts in connection with the sales of auction rate securities to Colorado investors and failed to adequately supervise its financial advisors who sold the auction rate securities to Colorado investors. The Initial Decision by Judge Spencer is not an effective or final order, but was pending with the Securities Commissioner for issuance of a final order.

The settlement also concluded a multi-state investigation of E\*TRADE for its role in the sale of auction rate securities for making misleading representations to certain of its clients that auction rate securities were the same as "7 day paper" and were a suitable alternative to money market funds for liquidity purposes. It did so through its sales force, some of whom represented to certain investors that auction rate securities were safe investments for cash management purposes. The auction rate securities markets froze in February of 2008, triggering a flood of complaints from investors who could not withdraw money from their accounts. States received complaints from a wide range of investors who suffered significant financial damage because the money they were told was liquid was tied up in the frozen ARS market.

E\*TRADE has agreed to make Colorado investors whole," said Commissioner Joseph. "Getting this relief for investors was our ultimate goal. I credit the hard work and persistence of the Staff of the Division and the lawyers from the Colorado Attorney General's office who represented us in our action for achieving this positive result for investors."

The terms of the settlement include E\*TRADE's agreement to buy back at par all outstanding auction rate securities purchased through the firm by individual investors prior to February 11, 2008, fully reimburse all individual investors who sold their auction rate securities at a discount, reimburse certain investors for the cost of loans after the investor took out a loan from E\*TRADE because their securities were frozen, and pay a penalty and the costs of the legal action.

This settlement is the fifteenth that the Securities Commissioner has entered. Previous settlements include Deutsche Bank Securities, Citigroup Global Markets, Bank of America Securities, Credit Suisse Securities, JP Morgan Chase, Merrill Lynch, RBC Capital Markets, UBS Securities, Wachovia Securities, Stifel Nicolaus, Goldman Sachs, Morgan Stanley, TD Ameritrade, and Wells Fargo. The Division continues to investigate possible misconduct by other firms.

*The Colorado Division of Securities is responsible for the administration and enforcement of the Colorado Securities Act, the Colorado Commodity Code, the Colorado Municipal Bond Supervision Act, and the Local Government Investment Pool Trust Fund Administration and Enforcement Act. The Division licenses and regulates stockbrokers and investment advisers and the securities investments they offer, sell, and advise about in Colorado. The Division also investigates cases of alleged securities fraud.*

*DORA is dedicated to preserving the integrity of the marketplace and is committed to promoting a fair and competitive business environment in Colorado. Consumer protection is our mission.*

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