

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 9018 / March 17, 2009

In the Matter of

**Automated Trading Desk Specialists,
LLC,**

Respondent.

**ORDER UNDER RULE 602(e) OF THE
SECURITIES ACT OF 1933
GRANTING A WAIVER OF THE
RULE 602(b)(4) AND RULE 602(c)(2)
DISQUALIFICATION PROVISIONS**

I.

Automated Trading Desk Specialists, LLC (“ATDS”) has submitted a letter, dated December 10, 2008, requesting a waiver of the Rule 602(b)(4) and 602(c)(2) disqualifications from the exemption from registration under Regulation E arising from ATDS’ settlement of an injunctive action commenced by the Commission.

II.

On March 4, 2009, the Commission filed a civil injunctive action in the United States District Court for the Southern District of New York alleging that, from 1999 through 2005, ATDS violated its basic obligation as a specialist on the Chicago Stock Exchange (“CHX”) to serve public customer orders over its own proprietary interests while executing trades on the CHX, in violation of CHX Article XXX, Rule 2 (since repealed) and CHX Article 9, Rule 17. The Commission’s complaint further alleged that by failing to make or keep current a blotter containing an itemized daily record of all purchases and sales of securities effected by ATDS for its proprietary accounts, ATDS violated Section 17(a) of the Securities Exchange Act of 1934 (“Exchange Act”) and Rule 17a-3(a)(1) thereunder. On March 11, 2009, the Court entered a Final Consent Judgment permanently enjoining ATDS from violating CHX Article 9, Rule 17, and Section 17(a) of Exchange Act and Rule 17a-3(a)(1) thereunder, ordering \$4.2 million in disgorgement and imposing \$800,000 in civil penalties.

The Regulation E exemption is unavailable for the securities of small business investment company issuers or business development company issuers if, among other things, any investment adviser or underwriter of the securities to be offered is subject to any order, judgment or decree of any court of competent jurisdiction “temporarily or permanently restraining or enjoining such person from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security.” See Rule 602(b)(4) of the Securities Act of 1933 (“Securities Act”). The Regulation E exemption

is also not available for the securities of an issuer if any of its directors, officers, principal security holders, any investment adviser or underwriter of the securities to be offered, or any partner, director or officer of such investment adviser or underwriter is temporarily or permanently restrained or enjoined by any court from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security or arising out of such person's conduct as an underwriter, broker, dealer or investment adviser. *See* 602(c)(2). Rule 602(e) of the Securities Act provides, however, that the disqualification "shall not apply . . . if the Commission determines, upon a showing of good cause, that it is not necessary under the circumstances that the exemption be denied."

III.

Based upon the representations set forth in ATDS' request, the Commission has determined that pursuant to Rule 602(e) under the Securities Act a showing of good cause has been made that it is not necessary under the circumstances that the exemption be denied as a result of the Final Consent Judgment.

Accordingly, **IT IS ORDERED**, pursuant to Rule 602(e) under the Securities Act, that a waiver from the application of the disqualification provisions of Rule 602(b)(4) and 602(c)(2) under the Securities Act resulting from the entry of the Final Consent Judgment is hereby granted.

By the Commission.

Elizabeth M. Murphy
Secretary