

**NASDAQ PHLX LLC  
LETTER OF ACCEPTANCE, WAIVER AND CONSENT  
NO. 2019061065701**

TO: Nasdaq Phlx LLC  
c/o Department of Enforcement  
Financial Industry Regulatory Authority (“FINRA”)

RE: Jefferies LLC, Respondent  
Member Firm  
CRD No. 2347

Pursuant to Rule 9216 of Nasdaq Phlx LLC (“Phlx”) Code of Procedure,<sup>1</sup> Jefferies LLC (“Jefferies” or the “firm”) submits this Letter of Acceptance, Waiver and Consent (“AWC”) for the purpose of proposing a settlement of the alleged rule violations described below. This AWC is submitted on the condition that, if accepted, Phlx will not bring any future actions against the Respondent alleging violations based on the same factual findings described herein.

**I.**

**ACCEPTANCE AND CONSENT**

- A. Respondent hereby accepts and consents, without admitting or denying the findings, and solely for the purposes of this proceeding and any other proceeding brought by or on behalf of Phlx, or to which Phlx is a party, prior to a hearing and without an adjudication of any issue of law or fact, to the entry of the following findings by Phlx:

**BACKGROUND**

Jefferies has been a Phlx member since May 2012 and a FINRA member since March 1963. It is a wholly-owned subsidiary of Jefferies Group LLC, which in turn is a wholly-owned subsidiary of Jefferies Financial Group Inc., a diversified holding company. Jefferies provides investment banking and brokerage services. The firm is headquartered in New York, New York, and has approximately 2,100 registered persons.

**RELEVANT PRIOR DISCIPLINARY HISTORY**

The firm has prior relevant disciplinary history specifically relating to the accurate recording of order receipt and transmission times.

In July and August 2019, Jefferies consented to a censure and a total fine of \$84,000 allocated among Nasdaq Phlx LLC, NYSE American LLC, and Cboe Exchange, Inc. for violations of § 17(a) of the Securities Exchange Act of 1934 (the “Exchange Act”) and

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<sup>1</sup> Series 9000 of The Nasdaq Stock Market LLC Rules are incorporated by reference into Phlx Rule General 5, Section 3, and are thus Phlx Rules and thereby applicable to Phlx members, member organizations, persons associated with member organizations, and other persons subject to the Exchange’s jurisdiction.

Exchange Act Rule 17a-3 thereunder, and the recordkeeping and related supervisory rules of those exchanges, for its failure to maintain accurate order receipt and order transmission times for certain of its manual options orders routed to exchange floor brokers in 2016.<sup>2</sup>

### **SUMMARY**

This matter arises from a 2019 examination of the firm conducted by FINRA's Department of Market Regulation on behalf of Phlx and other options exchanges. The examination found that from January 2019, through December 2019, Jefferies failed to comply with the recordkeeping requirements of Exchange Act § 17(a) and Exchange Act Rule 17a-3 thereunder, and Phlx Rule 760.<sup>3</sup> In addition, from October 2018, through June 2020, Jefferies failed to establish, maintain, and enforce a supervisory system reasonably designed to achieve compliance with Exchange Act Rule 17a-3 and Phlx Rule 760 in violation of Phlx Rules 748 and 707.<sup>4</sup>

### **FACTS AND VIOLATIVE CONDUCT**

1. The recordkeeping provisions of the federal securities laws and Phlx rules are designed to ensure that regulators have access to important information about securities transactions. Access to complete and accurate transaction records is essential for effective surveillance and examination of broker-dealers by Phlx and other regulators.
2. Exchange Act §17(a) and Exchange Act Rule 17a-3(a)(6)(i) thereunder require broker-dealers, such as Jefferies, to create a memorandum of each brokerage order, and of any other instruction, given or received for the purchase or sale of securities, whether executed or unexecuted. The rule requires the memorandum to show, among other things, the time the order was received and the time of order entry.<sup>5</sup>
3. Phlx Rule 760 required member organizations to make, keep current and preserve such books and records as the Exchange may prescribe and as may be prescribed by the Exchange Act and the rules and regulations thereunder.
4. From January 2019, through December 2019, Jefferies failed to accurately record order receipt times and failed to record transmission times for certain options orders manually routed to Phlx floor brokers. Specifically, traders and salespersons, by either submitting late order tickets or failing to use Jefferies' order management system ("OMS") functionality to generate a transmission timestamp, caused the firm

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<sup>2</sup> Nasdaq Phlx LLC Matter No. 20160487695.

<sup>3</sup> As of February 3, 2020, Phlx Rule 760 was renumbered to Options 6E, Section 1.

<sup>4</sup> As of February 3, 2020, Phlx Rule 748 was renumbered to General 9, Section 20, and Phlx Rule 707 was renumbered to Phlx General 9, Section 1(c).

<sup>5</sup> Rule 17a-3(a)(6) defines the time of order entry as "the time when the member, broker or dealer transmits the order or instruction for execution."

to fail to record or inaccurately record timestamps on approximately 1,225 options orders manually routed to floor brokers on Phlx and other options exchanges.

5. Accordingly, Jefferies violated Exchange Act § 17(a) and Exchange Act Rule 17a-3 thereunder, and Phlx Rule 760 during the relevant period.
6. Phlx Rule 748, and subsequently General 9, Section 20, requires members to “establish, maintain, and enforce written supervisory procedures, and a system for applying such procedures, to supervise the types of business(es) in which the member or member organization engages in and to supervise the activities of all registered representatives, employees, and associated persons. The written supervisory procedures and the system for applying such procedures shall reasonably be designed to prevent and detect, insofar as practicable, violations of the applicable securities laws and regulations, including the By-Laws and Rules of the Exchange.”
7. Phlx Rule 707, now General 9, Section 1(c), requires members, member organizations, and persons associated with or employed by a member or member organizations to not engage in conduct inconsistent with just and equitable principles of trade.
8. In October 2018 and February 2019, Jefferies implemented coding updates that caused its OMS to capture inaccurate timestamps. After the updates, the OMS incorrectly recorded the user’s workstation/desktop time rather than the server time synchronized with the Network Time Protocol<sup>6</sup> as the source for timestamps for all option orders.
9. From October 2018, through June 2020, Jefferies’ procedures applicable to its Derivatives Trading Desk correctly described the documentation requirements of Exchange Act Rule 17a-3 and Phlx rules, including the requirement to record a timestamp on order memoranda when an options order is entered, transmitted, and executed. Jefferies’ procedures further required each desk head to review order tickets for accuracy and completeness.
10. Jefferies failed to have, however, a supervisory system reasonably designed to ensure that any updates or changes it made to its OMS did not impact the system’s accurate timestamp function. Specifically, the firm did not perform any testing to ensure that the October 2018 and February 2019 changes to its OMS would not impact the automated timestamping of its options orders.
11. Accordingly, Jefferies violated Phlx Rule 748, subsequently General 9, Section 20, and Phlx Rule 707, subsequently General 9, Section 1(c), during the relevant period.

B. Respondent also consents to the imposition of the following sanctions:

1. Censure; and

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<sup>6</sup> Network Time Protocol is a protocol used to synchronize computer clock times in a network (i.e., from desktops to servers).

2. A total fine in the amount of \$225,000 (\$28,333.33 payable to Phlx).<sup>7</sup>

Respondent agrees to pay the monetary sanction in accordance with its executed payment form. Respondent agrees to pay the monetary sanction upon notice that this AWC has been accepted and that such payment is due and payable.

Respondent specifically and voluntarily waives any right to claim that it is unable to pay, now or at any time hereafter, the monetary sanction imposed in this matter.

The sanctions imposed herein shall be effective on a date set by FINRA staff.

## II.

### WAIVER OF PROCEDURAL RIGHTS

Respondent specifically and voluntarily waives the following rights granted under Phlx's Code of Procedure:

- A. To have a Formal Complaint issued specifying the allegations against the firm;
- B. To be notified of the Formal Complaint and have the opportunity to answer the allegations in writing;
- C. To defend against the allegations in a disciplinary hearing before a hearing panel, to have a written record of the hearing made and to have a written decision issued; and
- D. To appeal any such decision to the Exchange Review Council and then to the U.S. Securities and Exchange Commission and a U.S. Court of Appeals.

Further, Respondent specifically and voluntarily waives any right to claim bias or prejudgment of the Chief Regulatory Officer, the Exchange Review Council, or any member of the Exchange Review Council, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including acceptance or rejection of this AWC.

Respondent further specifically and voluntarily waives any right to claim that a person violated the ex parte prohibitions of Rule 9143 or the separation of functions prohibitions of Rule 9144, in connection with such person's or body's participation in discussions regarding the terms and

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<sup>7</sup> The remainder of the fine shall be allocated to BOX Exchange LLC, Cboe Exchange, Inc., Cboe C2 Exchange, Inc., Cboe BZX Exchange, Inc., Cboe EDGX Exchange, Inc., Miami International Securities Exchange, LLC, MIAX PEARL, LLC, Nasdaq ISE, LLC, Nasdaq GEMX, LLC, The Nasdaq Options Market LLC, NYSE American LLC, and NYSE Arca, Inc. for similar violations.

conditions of this AWC, or other consideration of this AWC, including its acceptance or rejection.

### III.

#### OTHER MATTERS

Respondent understands that:

- A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by FINRA's Department of Enforcement and the Exchange Review Council, the Review Subcommittee, or the Office of Disciplinary Affairs ("ODA"), pursuant to Phlx Rule 9216;
- B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against the Respondent; and
- C. If accepted:
  - 1. This AWC will become part of the Respondent's permanent disciplinary record and may be considered in any future actions brought by Phlx or any other regulator against the Respondent;
  - 2. Phlx may release this AWC or make a public announcement concerning this agreement and the subject matter thereof in accordance with Phlx Rule 8310 and IM-8310-3; and
  - 3. Respondent may not take any action or make or permit to be made any public statement, including in regulatory filings or otherwise, denying, directly or indirectly, any finding in this AWC or create the impression that the AWC is without factual basis. Respondent may not take any position in any proceeding brought by or on behalf of Phlx, or to which Phlx is a party, that is inconsistent with any part of this AWC. Nothing in this provision affects the Respondent's right to take legal or factual positions in litigation or other legal proceedings in which Phlx is not a party.
- D. Respondent may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. Respondent understands that it may not deny the charges or make any statement that is inconsistent with the AWC in this Statement. This Statement does not constitute factual or legal findings by Phlx, nor does it reflect the views of Phlx or its staff.

The undersigned, on behalf of the firm, certifies that a person duly authorized to act on its behalf has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; that the firm has agreed to the AWC's provisions voluntarily; and that no offer, threat, inducement, or promise of any kind, other than the terms set forth herein and the prospect of avoiding the issuance of a Complaint, has been made to induce the firm to submit it.

August 5, 2022

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Date

Jefferies LLC  
Respondent

By: *Cynthia B. Adams*  
Cynthia B. Adams  
Managing Director

Accepted by Phlx:

August 23, 2022

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Date

*Steven Tanner*

Steven Tanner  
Senior Counsel  
Department of Enforcement

Signed on behalf of Phlx, by delegated  
authority from the Director of ODA