

**NASDAQ PHLX LLC**  
**NOTICE OF ACCEPTANCE OF AWC**

**Certified, Return Receipt Requested**

TO:      **Lek Securities Corporation**  
          **Mr. Samuel F. Lek**  
          **Chief Executive Officer**  
          **1 Liberty Plaza**  
          **165 Broadway, 52<sup>nd</sup> Floor**  
          **New York, NY 10006**

FROM:     Nasdaq PHLX LLC (“PHLX”) (the “Exchange”)  
          c/o Financial Industry Regulatory Authority (“FINRA”)  
          Department of Enforcement  
          9509 Key West Avenue  
          Rockville, MD 20850

DATE:     January 24, 2019

RE:        Notice of Acceptance of Letter of Acceptance, Waiver and Consent No. 2015045758302

**Please be advised** that your above-referenced Letter of Acceptance, Waiver and Consent (“AWC”) has been accepted on **January 24, 2019** by the Exchange Review Council’s Review Subcommittee, or by the Office of Disciplinary Affairs on behalf of the Exchange Review Council, pursuant to PHLX Rule 9216. A copy of the AWC is enclosed herewith.

You are again reminded of your obligation, if currently registered, immediately to update your Uniform Application for Broker-Dealer Registration (“Form BD”) to reflect the conclusion of this disciplinary action. Additionally, you must also notify FINRA (or the Exchange if you are not a member of FINRA) in writing of any change of address or other changes required to be made to your Form BD.

You will be notified by the Registration and Disclosure Department regarding sanctions if a suspension has been imposed and by Exchange’s Finance Department regarding the payment of any fine if a fine has been imposed.

Lek Securities Corporation  
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If you have any questions concerning this matter, please contact me at (646) 430-7050.



Elyse D. Kovar  
Senior Counsel  
Department of Enforcement, FINRA

Signed on behalf of Nasdaq PHLX LLC.

Enclosure

FINRA District 10 – New York  
Michael Solomon  
Senior Vice President and Regional Director  
(Via email)

**NASDAQ PHLX LLC**  
**LETTER OF ACCEPTANCE, WAIVER AND CONSENT**  
**NO. 2015045758302**

**TO:** Nasdaq PHLX LLC  
c/o Department of Enforcement  
Financial Industry Regulatory Authority ("FINRA")

**RE:** Lek Securities Corporation, Respondent  
Broker-Dealer  
CRD No. 33135

Pursuant to Rule 9216 of Nasdaq PHLX LLC ("PHLX" or the "Exchange") Code of Procedure, Lek Securities Corporation ("LSCI" 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.** The Firm 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**

LSCI is a Delaware corporation headquartered in New York, NY. It operates as an independent order execution and clearing firm providing customers with direct market access to numerous exchanges, including PHLX. LSCI has been a member of FINRA since April 1, 1996, and a member of PHLX since November 13, 1995; these registrations remain in effect. The Firm has no relevant disciplinary history.

**SUMMARY**

1. In FINRA Matter No. 20150457583, on behalf of PHLX, FINRA's Options Regulation Group ("Options Regulation") of the Department of Market Regulation (the "staff") conducted a review of LSCI's compliance with applicable federal securities laws and regulations and Exchange rules regarding options order entry and related supervision during the period between July 2013 and September 2015 (the "Review Period"), including PHLX Rules 707, 708, 760, 785(c), 1014(g)(i)(A), 1053, 1063(e)(i), and 748, and Section 17(a) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and Rule 17a-3 thereunder.

2. Applicable PHLX rules require that, when accepting an order, a member must obtain and record an appropriate account type or origin code in each order record and as an order detail when entering orders into the Exchange's systems to indicate the kind of account for which the order will be executed and cleared. Each options market has its own origin codes, but at a minimum, all have codes to indicate that an order is being executed for a customer, a firm, or a market maker. Origin codes are important because, among other things, they affect the accuracy of the firm's order records and the Exchange's audit trail, which may inadvertently impact the priority of order execution and the Exchange's surveillance for compliance with Exchange rules and federal securities laws.
3. During the Review Period, as set forth below, LSCI improperly marked certain options orders in violation of PHLX Rules 707, 708, 760, 785(c), 1014(g)(i)(A), 1053, 1063(e)(i), and 748, and Section 17(a)(l) of the Exchange Act and Rule 17a-3 thereunder. Specifically, LSCI submitted numerous orders, representing a total of 1,199,372 contracts, with a "Customer" order origin code instead of a "Professional Customer"<sup>1</sup> order origin code, which executed on multiple U.S. options exchanges, including the Exchange, resulting in: (i) transactions executed by the Firm that may have traded ahead of other orders entitled to execution priority; (ii) potential adverse impact to the execution price and quantity of other market participants' orders; (iii) an inaccurate audit trail and inaccurate order records; and (iv) an adverse impact to the Exchange's ability to surveil for and detect potential violations of its rules and of federal securities laws. In addition, the Firm had supervisory deficiencies related to the marking of options orders with the correct origin codes.

#### **FACTS AND VIOLATIVE CONDUCT**

4. During the Review Period, the Exchange required the use of origin codes. Among other things, the origin code determines the order's execution priority and is part of the audit trail data for every transaction.
5. During the Review Period, LSCI submitted an inaccurate origin code of Customer, instead of Professional Customer, on options orders for one of its market access customers, totaling approximately 1,199,372 contracts.
6. LSCI was unaware of the inaccurate origin codes entered on the Professional Customer options contracts for this particular market access customer until so advised by another exchange on May 13, 2015. Despite learning of the issue, LSCI did not correct the origin codes for its market access customer's orders that executed on PHLX until September 2015, when alerted to this issue by FINRA staff. The inaccurate origin codes for that

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<sup>1</sup> The term Professional Customer is defined on all options exchanges as a person or entity that is not a broker or dealer in securities, but places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). To comply with Exchange requirements, Exchange members are required to review their customers' activity on at least a quarterly basis to determine whether orders that are not for the account of a broker or dealer should be represented as Professional Orders. Orders for any customer that had an average of more than 390 orders per day during any month of a calendar quarter must be represented as Professional Orders for the next calendar quarter.

customer were caused by a programming error in connection with certain technology upgrades, and were ultimately resolved through corrective action by LSCI programmers.

7. Of the 1,199,372 Professional Customer options contracts executed by LSCI for its market access customer with the origin code of Customer, approximately 396,895 contracts (33.09%) were executed on the Exchange.
8. Each instance in which LSCI executed a Professional Customer order with an incorrect origin code of Customer created inaccuracies in the Firm's order records and the audit trail, and could have affected the priority of order execution and the Exchange's ability to surveil for and detect potential violations of its rules and federal securities laws.
9. By marking orders with the wrong origin code during the Review Period, LSCI violated or caused violations of the following rules:
  - a. Section 17(a)(1) of the Exchange Act and SEC Rule 17a-3(a)(6)(i) thereunder, which require Options Participants to create a memorandum of each order, and any other instruction, showing the terms and conditions of the order;
  - b. PHLX Rule 1053, which requires member organizations that are clearing members of the OCC to supply certain trade information to PHLX;
  - c. PHLX Rule 785(c), which requires member organizations to submit certain trade data elements, including any information that PHLX prescribes, in an automated format;
  - d. PHLX Rule 708, which prohibits member organizations from engaging in acts detrimental to the interest or welfare of PHLX;
  - e. PHLX Rule 760, which requires member organizations to make and keep current records as PHLX may prescribe and as may be prescribed by the Exchange Act and rules and regulations thereunder;
  - f. PHLX Rule 1014(g)(i)(A), which requires controlled or broker-dealer accounts to yield priority to customer orders when competing at the same price;
  - g. PHLX Rule 1063(e)(i), which requires a Floor Broker to record options orders onto the electronic Floor Broker Management System and include certain information, including the order type (*i.e.*, Customer, Firm, Broker-Dealer, Professional); and
  - h. PHLX Rule 707, which prohibits member organizations from engaging in conduct inconsistent with just and equitable principles of trade.

### Supervision

10. PHLX Rule 748(b) requires member organizations to provide for appropriate supervisory control of the organization and compliance with securities laws and regulations, including the Exchange's By-Laws and Rules. Member organizations are required to provide for appropriate written procedures of supervision and control, and to establish a separate system of follow-up and review to determine that the delegated authority and responsibility is being properly exercised.
11. PHLX Rule 748(d) requires each person with supervisory control to reasonably discharge his duties and obligations in connection with the organization's supervision and control to prevent and detect, insofar as practicable, violations of the applicable securities laws and regulations, including the Exchange's By-Laws and Rules.
12. PHLX Rule 748(h) requires member organizations to establish, maintain, and enforce written supervisory procedures reasonably designed to prevent and detect violations of securities laws and regulations, including the Exchange's By-Laws and Rules.
13. During the Review Period, LSCI violated PHLX Rule 748 by failing to have reasonable supervisory systems and controls in place, including a separate system of follow-up and review, reasonably designed to achieve compliance with PHLX's origin code requirements. In particular, LSCI failed to conduct reasonable reviews of activity in customer accounts to determine whether and when they qualified as Professional Customers, and to ensure that it placed correct origin codes on orders. LSCI failed to take effective corrective action once alerted to the issue by another options exchange to ensure that it properly marked as Professional Customer orders for one particular market access customer on several options markets, including PHLX.

B. The Firm also consents to the imposition of the following sanctions:

1. A censure; and
2. A fine in the amount of \$225,000, of which \$74,453 shall be paid to PHLX.<sup>2</sup>

Additionally, acceptance of this AWC is conditioned upon acceptance of similar settlement agreements in related matters between the Firm and each of the following self-regulatory organizations: (i) NYSE American LLC; (ii) Nasdaq ISE, LLC; and (iii) the Cboe Exchange, Inc.

The Firm agrees to pay the monetary sanction(s) in accordance with its Payment Information Form.

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

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<sup>2</sup> The balance of the fine shall be paid to the self-regulatory organizations referenced in the following paragraph.

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

## II.

### **WAIVER OF PROCEDURAL RIGHTS**

The Firm 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 PHLX Review Council and then to the U.S. Securities and Exchange Commission and a U.S. Court of Appeals.

Further, the Firm specifically and voluntarily waives any right to claim bias or prejudgment of the Chief Regulatory Officer, the PHLX Review Council, or any member of the PHLX 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.

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

## III.

### **OTHER MATTERS**

The Firm 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 PHLX 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. The Firm 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.

1.8.2019  
Date

Lek Securities Corporation  
Respondent

✓ By: Samuel F. Lek  
Name: Samuel F. Lek  
Chief Executive Officer  
Title: Lek Securities Corporation  
1 Liberty Plaza-32nd Floor  
New York, NY 10006  
(212) 509-2300

Reviewed by:

Counsel for Respondent

Accepted by PHLX:

1/24/2019  
Date

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

Elyse D. Kovar  
Elyse D. Kovar  
Senior Counsel  
Department of Enforcement

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

## PAYMENT INFORMATION

The fine amount will be reflected on an upcoming invoice and will be direct debited from the account for your firm that Nasdaq currently has on file. **Please DO NOT submit payment at this time.**

Please inform your finance or applicable department of this forthcoming debit.

If you would like to arrange for an alternative method of payment, please enter the billing contact information below and Nasdaq's Billing Department will contact you. **Otherwise, please leave the following information blank.**

Billing Contact Name: Shaniqua Jones

Billing Contact Address: One Liberty Plaza, NY, NY 10006

Billing Contact Email: FinOp@leksecurities.com

Billing Contact Phone Number: 212-509-2300

Respectfully submitted,

Respondent

Lek Securities Corporation

1-8-2019

Date

By: Samuel E. Lek

Name: Samuel E. Lek  
Title: Chief Executive Officer  
Lek Securities Corporation  
1 Liberty Plaza-52nd Floor  
New York, NY 10006  
(212) 509-2300