

**NASDAQ PHLX LLC**  
**LETTER OF ACCEPTANCE, WAIVER AND CONSENT**  
**NO. 2019.11.0080**

TO: Nasdaq PHLX LLC  
Phlx Enforcement Department

RE: Walleye Trading LLC, Respondent  
Member Firm  
CRD No. 136196

Pursuant to Rule 9216 of Nasdaq PHLX LLC (“Phlx” or the “Exchange”) Code of Procedure, Walleye Trading LLC (the “Firm” or “Respondent”) 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 AND RELEVANT DISCIPLINARY HISTORY**

The Firm became a Phlx member organization on August 25, 2005, and its registration remains in effect. The Firm has no relevant disciplinary history.

**SUMMARY**

During the period from October 1, 2017 through November 12, 2019 (the “Review Period”), the Firm violated Phlx Rules 1087(b)(1)(K) and 748(h),<sup>1</sup> as set forth below.

**FACTS AND VIOLATIVE CONDUCT**

**PIXL Auction Violations**

1. Price Improvement XL (PIXL) is the Phlx electronic price improvement mechanism whereby an initiating member submits a two-sided order into an auction process soliciting price improvement. It permits a Phlx member to electronically submit for execution an order it represents as agent on behalf of a Public Customer, broker-dealer, or any other entity against principal interest or against certain other orders it represents as agent provided it submits the PIXL Order for electronic execution into the PIXL Auction

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<sup>1</sup> Phlx Rules 1087(b)(1)(K) and 748(h) were renumbered and relocated to Options 3, Section 13(b)(1)(K) and General 9, Section 20(h), respectively, in the Phlx rulebook. See Securities Exchange Act Release No. 88213 (February 14, 2020), 85 FR 9859 (February 20, 2020) (SR-Phlx-2020-03).

(“Auction”) pursuant to Rule 1087.

2. Phlx Rule 1087(b)(1)(K) permits multiple PIXL Auction Notification (“PAN”) responses from the same member submitted during the Auction; however, multiple orders at a particular price point submitted by a member in response to a PAN may not exceed, in the aggregate, the size of the PIXL order.
3. During the Review Period, the Firm, in 9,008 Auctions, inadvertently submitted more than one order in response to a PAN at a particular price point that exceeded, in the aggregate, the size of the PIXL Order. As a result, the Firm entered orders for 36,898 more contracts than it should have, resulting in 509 executions. The violations occurred due to a coding error with the Firm’s trading system that allowed different trading strategies, while operating independently, to submit multiple responses at the same price. The conduct described in this paragraph constitutes violations of Phlx Rule 1087(b)(1)(K).

Supervision

4. Phlx Rule 748(h) requires a member organization to establish, maintain and enforce written supervisory procedures (“WSPs”), and a system of supervision for applying such procedures, that are reasonably designed to supervise the types of businesses and activities in which they and their associated persons engage in order to achieve compliance with, and to prevent and detect violations of, applicable securities laws and regulations, including the By-Laws and Rules of Phlx.
5. During the Review Period, while the Firm had WSPs in place that addressed the requirements of Phlx Rule 1087, the WSPs were not reasonably designed to supervise the type of businesses and activities in which it and its associated persons were engaged. Specifically, Firm’s written supervisory procedures did not describe the specific individual(s) responsible for supervision; (2) the supervisory steps and reviews to be taken by the appropriate supervisor; (3) the frequency of such reviews; and (4) how such reviews shall be documented.
6. During the Review Period, the Firm did not establish, maintain and enforce any system of supervision to detect and prevent different trading strategies from submitting multiple PAN responses at the same price that in the aggregate exceeded the size of the PIXL order.
7. Phlx acknowledges that the Firm has taken corrective actions to address the matter set forth herein.
8. The conduct described in paragraphs five and six constitutes violations of Phlx Rule 748(h).

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

1. A censure; and
2. A fine in the amount of \$20,000 (comprised of \$10,000 for the violations of Phlx Rule 1087(b)(1)(K) and \$10,000 for the violations of Phlx Rule 748(h)).

Respondent agrees to pay the monetary sanction(s) in accordance with its executed Election of Payment Form.

Respondent 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.

The sanctions imposed herein shall be effective on a date set by Phlx Enforcement Department 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 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 the Phlx Enforcement Department 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.

Walleye Trading LLC  
Respondent

By: 

Print Name: Andrew Carney

Title: CEO

October 26, 2020

Date

Accepted by Phlx:

October 27, 2020

Date



Erik Wittman  
Senior Enforcement Counsel  
Phlx Enforcement Department

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