

**NASDAQ ISE, LLC  
LETTER OF ACCEPTANCE, WAIVER AND CONSENT  
NO. 2019061065703**

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

RE: Jefferies LLC, Respondent  
Broker-Dealer  
CRD No. 2347

Pursuant to Rule 9216 of the Nasdaq ISE, LLC (“ISE”) 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, ISE will not bring any future actions against the firm 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 ISE, or to which ISE 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 ISE:

**BACKGROUND**

Jefferies has been an ISE member since March 2002 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 Exchange Act Rule 17a-3 thereunder, and the recordkeeping and related supervisory rules

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<sup>1</sup> Series 9000 of The Nasdaq Stock Market, LLC (“Nasdaq”) Rules are incorporated by reference into the Nasdaq ISE Rules General 5, Section 3, and are thus Nasdaq ISE Rules and thereby applicable to Nasdaq ISE Members, Associated Persons, and other persons subject to Nasdaq ISE’s jurisdiction.

of those exchanges, for its firm's 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 ISE and other options exchanges. The examination found that from October 2018, through June 2020, Jefferies failed to comply with the recordkeeping requirements of Exchange Act § 17(a) and Exchange Act Rule 17a-3 thereunder, and ISE Rule 1400.<sup>3</sup> In addition, during the relevant period, Jefferies failed to establish, maintain, and enforce a supervisory system reasonably designed to achieve compliance with Exchange Act Rule 17a-3 and ISE Rule 1400 in violation of ISE Rules 400 and 401.<sup>4</sup>

### **FACTS AND VIOLATIVE CONDUCT**

1. The recordkeeping provisions of the federal securities laws and ISE 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 ISE 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. ISE Rule 1400, and subsequently Options 6E, Section 1, requires Participants 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. During the relevant period, Jefferies failed to accurately record order receipt and/or transmission times within its order management system ("OMS") for certain options orders electronically routed to ISE. Specifically, in October 2018 and February 2019, Jefferies implemented coding updates that caused its OMS to incorrectly capture 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. As a

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

<sup>3</sup> As of June 6, 2019, ISE Rule 1400 was renumbered to Options 6E, Section 1.

<sup>4</sup> As of June 6, 2019, ISE Rule 400 was renumbered to Options 9, Section 1, and ISE Rule 401 was renumbered to Options 9, Section 2.

<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."

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

result, the firm failed to record accurate timestamps on approximately 2,941 options orders electronically routed to ISE and other option exchanges.

5. Accordingly, Jefferies violated Exchange Act § 17(a) and Exchange Act Rule 17a-3 thereunder, and ISE Rule 1400, and subsequently Options 6E, Section 1, during the relevant period.
6. ISE Rule 400, and subsequently Options 9, Section 1, provides that "[n]o Member shall engage in acts or practices inconsistent with just and equitable principles of trade."
7. ISE Rule 401, and subsequently Options 9, Section 2, provides that "[n]o Member shall engage in conduct in violation of the Exchange Act, the By-Laws or the Rules of the Exchange, or the Rules of the Clearing Corporation insofar as they relate to the reporting or clearance of any Exchange Transaction, or any written interpretation thereof. Every Member shall so supervise persons associated with the Member as to assure compliance therewith."
8. During the relevant period, Jefferies' procedures applicable to its Derivatives Trading Desk correctly described the documentation requirements of Exchange Act Rule 17a-3 and ISE 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.
9. 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.
10. Accordingly, Jefferies violated ISE Rule 401, subsequently Options 9, Section 2, and ISE Rule 400, subsequently Options 9, Section 1, during the relevant period.

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

1. Censure; and
2. A total fine in the amount of \$225,000 (\$10,000 payable to ISE).<sup>7</sup>

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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 GEMX, LLC, The Nasdaq Options Market LLC, Nasdaq Phlx LLC, NYSE American LLC, and NYSE Arca, Inc. for similar violations.

The firm agrees to pay the monetary sanction upon notice that this AWC has been accepted and that such payment is due and payable. It has submitted a Payment Information form showing the method by which it proposes to pay the fine imposed.

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 imposed in this matter.

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 ISE'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, the firm 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.

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 Exchange Review Council, the Review Subcommittee, or the Office of Disciplinary Affairs (“ODA”), pursuant to ISE 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 firm; and
- C. If accepted:
  - 1. This AWC will become part of the firm’s permanent disciplinary record and may be considered in any future actions brought by ISE or any other regulator against the firm;
  - 2. ISE may release this AWC or make a public announcement concerning this agreement and the subject matter thereof in accordance with ISE Rule 8310 and IM-8310-3;<sup>8</sup> and
  - 3. The firm 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. The firm may not take any position in any proceeding brought by or on behalf of ISE, or to which ISE is a party, that is inconsistent with any part of this AWC. Nothing in this provision affects the firm’s right to take legal or factual positions in litigation or other legal proceedings in which ISE 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. The firm 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 ISE, nor does it reflect the views of the Exchange or its staff.

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<sup>8</sup> Series 8000 of the Nasdaq Rules are incorporated by reference into Nasdaq ISE Rules General 5, Section 2, and are thus Nasdaq ISE Rules and thereby applicable to Nasdaq ISE Members, Associated Persons, and other persons subject to Nasdaq ISE’s jurisdiction.

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 it 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 ISE:

August 23, 2022

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Date

Steven Tanner  
Steven Tanner  
Senior Counsel  
Department of Enforcement

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