

NASDAQ BX, INC.
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2019063047810

TO: Nasdaq BX, Inc.
c/o Department of Enforcement
Financial Industry Regulatory Authority (“FINRA”)

RE: Instinet, LLC, Respondent
Broker-Dealer
CRD No. 7897

Pursuant to Rule 9216 of Nasdaq BX, Inc. (“BX”) Code of Procedure,¹ Instinet, LLC (“Instinet” 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, BX 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 BX, or to which BX 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 BX:

BACKGROUND

Instinet has been a member of BX since June 1981, and a FINRA member since January 1980, and its registrations remains in effect. The Firm is headquartered in New York, NY, and employs over 140 registered representatives across nine branch offices. Instinet provides market access, trading support, and execution services to institutional customers.

RELEVANT PRIOR DISCIPLINARY HISTORY

In April 2018, in Matter No. 20130368360, Instinet consented to a censure, a fine of \$1,575,000, and an undertaking related to market access deficiencies for violations of self-regulatory organizations’ (“SROs”) respective supervision rules—including BX Rules 3010 and 2010—and Section 15(c)(3) of the Securities Exchange Act of 1934

¹ The Nasdaq Stock Market Rules General 5 Section 9000 et al. are incorporated by reference into BX Rule General 5, Section 2 and are thus BX Rules and thereby applicable to BX members, associated persons, and other persons subject to BX’s jurisdiction.

(“Exchange Act”), and Exchange Act Rule 15c3-5.² Among other findings, from August 2012 through at least November 2017, Instinet’s supervisory system, including its written supervisory procedures (“WSPs”), was not reasonably designed to identify potentially manipulative trading by its clients.

SUMMARY

From at least January 2019 through the present (the “Relevant Period”), Instinet violated BX Rules 3010 and 2110 (for conduct before October 23, 2019) and BX Rules General 9, Sections 20 and 1(a) (for conduct on or after October 23, 2019) by failing to establish and maintain a supervisory system, including WSPs, that was reasonably designed to achieve compliance with rules prohibiting manipulative trading activity by its customers.³

FACTS AND VIOLATIVE CONDUCT

1. BX Rule General 9, Section 20(a), and its predecessor, BX Rule 3010, requires “[e]ach member [to] establish and maintain a system to supervise the activities of each registered representative and associated person that is reasonably designed to achieve compliance with applicable securities laws and regulations and with applicable [BX] rules.”
2. BX Rule General 9, Section 1(a) and its predecessor, BX Rule 2110, provide that “[e]very member, member organization, or person associated with or employed by a member or member organization shall not engage in conduct inconsistent with just and equitable principles of trade.” A violation of BX Rule General 9, Section 20 constitutes a violation of BX Rules General 9, Section 1(a).

Instinet’s Business and Surveillance Model

3. During the Relevant Period, Instinet provided market access to domestic and foreign institutional clients and broker-dealers, some of which had multiple authorized traders.
4. Instinet used vendor-provided and proprietary systems to surveil for potentially manipulative trading by clients. The systems had some surveillance overlap (e.g., each system surveilled for wash trades), but each also provided unique surveillance patterns, and in some cases, addressed different types of order flow.

² This matter was brought on behalf of the following SROs: FINRA, The Nasdaq Stock Market LLC (“Nasdaq”), BX, Nasdaq PHLX LLC (“PHLX”), The Nasdaq Options Market LLC, Cboe BZX Exchange, Inc. (“BZX”), Cboe BYX Exchange, Inc. (“BYX”), Cboe EDGA Exchange, Inc. (“EDGA”), Cboe EDGX Exchange, Inc. (“EDGX”), the New York Stock Exchange LLC (“NYSE”), NYSE Arca Options, Inc., NYSE Arca Equities, Inc. (“NYSE Arca”), NYSE American Equities LLC (“NYSE American”), NYSE American Options LLC, BOX Options Exchange LLC, and Investors Exchange LLC (“IEX”).

³ BX Rule General 9, Sections 1(a) and 20 superseded BX Rules 2110 and 3010, respectively, on October 23, 2019.

Instinet failed to reasonably supervise for potentially manipulative trading.

Instinet did not reasonably surveil for certain forms of manipulation.

5. During the Relevant Period, Instinet's surveillance systems were not reasonably designed to supervise for potential manipulative trading.
6. First, from January 2019 through July 2025, Instinet's surveillance for potentially manipulative trading during the pre-market was unreasonable. Instinet only surveilled for potential pre-market spoofing activity by two clients. Instinet excluded from its pre-market spoofing review the activity of its other clients and did not surveil for any other type of potentially manipulative trading during the pre-market.
7. Second, Instinet implemented marking the close surveillances that included unreasonable parameters at various times during the review period. For example, the Firm's marking the close surveillances failed to reasonably account for scenarios where a trader or client entered a single low volume order with the intent to affect the security's closing price. The Firm had a control that tried to identify such orders, but it was limited to orders entered only in the final second before market close, which was unreasonable because marking the close can occur before the final second, particularly in less liquid securities.
8. Third, Instinet implemented ramping⁴ surveillance patterns that were set at unreasonably high thresholds that in certain instances did not consider the fact that ramping could occur with fewer trades.
9. Fourth, Instinet's surveillance for potential wash trading was unreasonable. Prior to January 2021, Instinet's surveillance parameters through one of its proprietary systems only identified potential wash sales if both the buy and sell order were routed to the same market destination. However, this surveillance pattern would miss potential wash trades where the buy and sell orders were routed to different market centers but subsequently executed at the same market center.
10. Fifth, one of the Firm's surveillance systems was not reasonably designed to detect potentially coordinated manipulative trading by traders at the same client. Instinet assigned each client one or more "Terminal IDs," each of which represented a different connection to the Firm's order management systems and typically different traders at the client. However, Instinet did not configure its system to capture client activity across multiple Terminal IDs, thus potentially missing coordinated manipulative trading activity among different traders at the same client.
11. Sixth, Instinet's surveillance systems were not reasonably designed to detect potential

⁴ Ramping involves trading practices designed to artificially increase or decrease the price of a security, by creating a false impression of trading interest.

instances of layering and spoofing. Specifically, until February 2020, Instinet's layering and spoofing surveillance excluded any potential non-bona fide orders that joined or improved the national best bid and offer ("NBBO"), even though layering and spoofing schemes can include the entry of non-bona fide orders that join or improve the NBBO. Further, since March 2020, Instinet's layering surveillance required at least five layered orders to occur within 15 seconds from the start of a layered pattern to trigger an alert. This pattern was unreasonable because layering and spoofing can occur with fewer than five non-bona fide orders over a longer time period.

Instinet failed to reasonably review surveillance alerts.

12. Instinet's review of its surveillance alerts also was not reasonably designed to identify potentially manipulative trading activity by its customers. From at least January 2019 through July 2023, Instinet failed to reasonably supervise first-level reviewers who closed substantially all of the pre-market spoofing alerts with a disposition of no further action. However, the first-level reviewers had not conducted a substantive review of the alerts. Because the first-level reviewers marked the alerts with a disposition of no further action, the Firm's second-level reviewers did not review the alerts. As a result, the Firm failed to reasonably review 98 percent of the pre-market spoofing alerts during this period.
13. Additionally, Instinet failed to have reasonably designed WSPs regarding the appropriate timeframes to complete its supervisory reviews for its surveillance alerts. The Firm's WSPs stated that alerts needed to be resolved in a "timely manner," but did not provide guidance about what constituted a timely review of surveillance alerts.
14. Relatedly, Instinet failed to timely perform second-level reviews of thousands of other alerts due to insufficient staffing in the Firm's sales and trading supervision department. The Firm generated a large volume of alerts but had few individuals to perform second-level reviews of those alerts and, consequently, had significant delays in reviewing alerts. For example, Firm records reflect delays of more than 60 business days in the resolution of certain second-level reviews regarding potentially manipulative trading activities.
15. Further, Instinet's process of tracking clients' authorized traders that had been terminated by Instinet for engaging in potentially manipulative or suspicious trading activity was not reasonable because Instinet did not have a reasonable process for confirming such authorized traders' access to Instinet had been terminated. Additionally, through at least May 2022, the Firm did not consider the alerts generated by each of its clients in the aggregate to evaluate the client's overall trading activity.

Instinet failed to reasonably supervise clients placed on heightened surveillance.

16. During the Relevant Period, Instinet recognized that certain clients presented a degree of heightened risk and placed two clients on what it called “heightened surveillance.” The Firm’s WSPs, however, did not explain the criteria or process the Firm used for assigning such a risk rating or for placing a client on heightened surveillance, including how such designations were to be considered when conducting surveillance reviews of the client. Instinet also maintained no documentation supporting its analysis for why these clients presented heightened risk. Moreover, Instinet did not inform its first-level reviewers that the two clients had been placed on heightened surveillance.
17. Instinet requested that two clients restrict their trading activity generally to securities meeting designated criteria as both clients had generated a high volume of alerts for potentially manipulative trading activity. Instinet relied on the two clients to implement those restrictions and did not take reasonable steps to ensure that the restrictions were properly implemented.

Instinet’s written supervisory procedures were unreasonable.

18. During the Relevant Period, Instinet’s surveillance reviews and procedures were unreasonable for multiple reasons. For instance, Instinet’s WSPs relating to its surveillance for manipulation were inaccurate or incomplete. For example, from at least January 2019 through January 2020, Instinet records purporting to reflect its parameter settings for one of the Firm’s system’s surveillance alerts did not accurately state the system’s parameters.
19. As a result, Instinet violated BX Rules 3010 and 2110 and BX Rule General 9, Sections 20(a) and 1(a).

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

- a censure;
- a total monetary fine in the amount of \$1,200,000, of which \$53,030 is allocated to BX;⁵ and
- an undertaking to certify in writing that the Firm has remediated the issues identified in the AWC and implemented a supervisory system, including WSPs, reasonably designed to achieve compliance with the rules cited in the AWC.

⁵ Those matters were brought on behalf of FINRA, BZX, BYX, EDGA, EDGX, IEX, MIAX PEARL, Nasdaq, PHLX, NYSE, NYSE Arca, NYSE American, NYSE Chicago, NYSE National, LTSE, and MEMX.

The Firm agrees to pay the monetary sanction upon notice that this AWC has been accepted and that such payment is due and payable. The Firm 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 BX'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 BX 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 BX or any other regulator against the Firm;
 - 2. BX may release this AWC or make a public announcement concerning this agreement and the subject matter thereof in accordance with BX Rule 8310 and IM-8310-3; 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 BX, or to which BX 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 BX 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 BX, nor does it reflect the views of the Exchange 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 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.

January 23, 2026
Date

David Sieradzki
Instinet, LLC
Respondent

By: David Sieradzki
David Sieradzki
General Counsel - Americas

Reviewed by:

William Barbera
William J. Barbera, Esq.
Schulte Roth & Zabel LLP
919 Third Avenue
New York, NY 10022
212-756-2521
Counsel for Respondent

Accepted by BX:

February 3, 2026
Date

Luis A. Prieto
Luis A. Prieto
Senior Counsel
Barred in DC and MD
Department of Enforcement

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