

**THE NASDAQ STOCK MARKET LLC
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2019063047809**

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

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

Pursuant to Rule 9216 of The Nasdaq Stock Market LLC (“Nasdaq”) Code of Procedure, 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, Nasdaq 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 Nasdaq, or to which Nasdaq 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 Nasdaq:

BACKGROUND

Instinet has been a member of Nasdaq since July 2006, and its registration 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 Nasdaq BX, Inc. Rules 3010 and 2010, Nasdaq PHLX LLC Rules 707 and 748, and The Nasdaq Options Market LLC Rule Chapter III, Section 2—and Section 15(c)(3) of the Securities Exchange Act of 1934, and Exchange Act Rule 15c3-5.¹ Among other findings, from

¹ This matter was brought on behalf of the following SROs: FINRA, Nasdaq BX, Inc. (“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

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.

Further, Instinet failed to have adequate risk management controls and supervisory procedures reasonably designed to systematically limit its financial exposure and prevent the entry of orders that exceeded appropriate pre-set credit or capital thresholds, or to prevent the entry of erroneous or duplicative orders and messaging. Finally, Instinet failed to establish, document, and maintain a reasonably designed supervisory system for regularly reviewing the effectiveness of the risk management controls and supervisory procedures related to market access.

SUMMARY

From at least January 2019 through the present (the “Relevant Period”), Instinet violated Nasdaq Rules 3010 and 2010A (for conduct before December 6, 2019) and Nasdaq Rules General 9, Section 20 and General 9, Section 1(a) (for conduct on or after December 6, 2019)² 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.

Further, during the Relevant Period, Instinet failed to establish, document, and maintain risk management controls and supervisory procedures reasonably designed to manage the financial risks associated with its market access activity and to prevent the entry of erroneous orders. As a result, Instinet violated Exchange Act § 15(c)(3), Exchange Act Rule 15c3-5, and Nasdaq Rules General 9, Sections 1 and 20.

FACTS AND VIOLATIVE CONDUCT

1. Nasdaq Rule General 9, Section 20(a) and its predecessor, Nasdaq 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 Nasdaq rules.”
2. Nasdaq Rule General 9, Section 1(a) and its predecessor, Nasdaq Rule 2010A, require that “[a] member, in the conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade.” A violation of Nasdaq Rule General 9, Section 20(a) or Nasdaq Rule 3010 also constitutes a violation of Nasdaq Rule

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”).

² On December 6, 2019, Nasdaq Rule 3010 (now General 9, Section 20) and Rule 2010A (now General 9, Section 1(a)) were respectively renumbered and relocated under the General 9 title (“Regulation”) in the Nasdaq Rulebook. See Securities Exchange Act Release No. 34-87778 (December 17, 2019), 84 FR 70590 (December 23, 2019) (SRNASDAQ-2019-098).

General 9, Section 1(a) and Nasdaq Rule 2010A, respectively.

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.

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 ramping³ 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.

³ Ramping involves trading practices designed to artificially increase or decrease the price of a security, by creating a false impression of trading interest.

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 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 several 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. The conduct in paragraphs 5 through 18 constitutes violations of Nasdaq Rules General 9, Section 20(a) and its predecessor, Nasdaq Rule 3010, and Nasdaq Rule General 9, Section 1(a) and its predecessor, Nasdaq Rule 2010A.

Instinet to failed to establish, document, and maintain risk management controls and supervisory procedures reasonably designed to manage the risks associated with its market access activity.

20. Exchange Act § 15(c)(3) prohibits broker-dealers from contravening the rules and regulations prescribed by the Securities and Exchange Commission to ("SEC") to "provide safeguards with respect to the financial responsibility and related practices of broker-dealers." The SEC adopted Exchange Act Rule 15c3-5 to reduce the risks associated with market access faced by broker-dealers, the securities markets, and the financial system as a whole, and thereby enhance market integrity and investor protection by requiring effective financial and regulatory risk management controls reasonably designed to limit financial exposure and ensure compliance with applicable regulatory requirements to be implemented on a market-wide basis.

21. Exchange Act Rule 15c3-5(b) requires that a “broker or dealer with market access, or that provides a customer or any other person with access to an exchange or alternative trading system through use of its market participant identifier or otherwise, shall establish, document, and maintain a system of risk management controls and supervisory procedures reasonably designed to manage the financial, regulatory, and other risks of this business activity.”
22. Exchange Act Rule 15c3-5(c)(1)(ii) requires a broker-dealer with market access to establish, document, and maintain financial risk management controls and supervisory procedures that are reasonably designed to prevent the entry of erroneous orders by rejecting orders that exceed appropriate price or size parameters, on an order-by-order basis or over a short period of time, or that indicate duplicative orders.
23. A violation of Exchange Act § 15(c)(3), or Exchange Act Rule 15c3-5 also constitutes a violation of Nasdaq Rule General 9, Section 1(a) and Nasdaq Rule 2010A, respectively.
24. The SEC explained in the Adopting Release for Exchange Act Rule 15c3-5⁴ that with respect to preventing erroneous and duplicative orders that it “believes broker-dealers should take into account the type of customer as well as the customer’s trading patterns and order entry history in determining how to set such parameters.” The SEC provided as an example of a reasonable control, “a system-driven, pre-trade control designed to reject orders that are not reasonably related to the quoted price of the security.” Such control “would prevent erroneously entered orders from reaching the securities markets, which should lead to fewer broken trades and thereby enhance the integrity of trading on the securities markets.”
25. From at least January 2019 through the present, Instinet failed to establish, document, and maintain financial risk management controls and procedures reasonably designed to limit the financial risks associated with providing market access to its clients.

Instinet failed to establish and maintain reasonably designed ADV controls absent other reasonable controls.

26. First, during the Relevant Period, Instinet operated an alternative trading system (“ATS”) that provided liquidity to subscribers seeking to execute large block trades. However, Instinet did not establish and maintain a reasonable size control, such as an ADV control, in the ATS. This was unreasonable because a large block order could result in an erroneous order.
27. Second, although the Firm implemented an ADV control for its other trading systems, the control only applied to orders in NMS securities that exceeded \$1 million in notional value. This threshold was unreasonable because erroneous orders in NMS securities can have notional values lower than \$1 million.
28. Third, Instinet set ADV thresholds without considering the trading characteristics of the

⁴ *Risk Management Controls for Brokers or Dealers with Market Access*, Exchange Act Release No. 34-63241, 76 FR 38293 (June 30, 2011).

relevant securities and that were, in certain instances, too permissive to detect potentially erroneous orders.

29. Fourth, from April 2023 through June 2024, Instinet applied a threshold to assess clients' ADV settings that relied, in part, on those clients' order history. This methodology was unreasonable, however, because it included order volumes rejected by pre-existing ADV limits, which could have resulted in inflated ADV thresholds based on atypical trading activity.
30. Instinet lacked documentation supporting the basis or rationale for the thresholds described in paragraphs 26 through 29.
31. In addition, absent other reasonably designed and documented size and price deviation controls, the Firm's use of these controls to limit the financial risks associated with its market access business was not reasonable.

Instinet failed to establish and maintain reasonably designed price and size controls for limit orders.

32. First, beginning in 2020, Instinet considered temporary limit adjustments while applying the "maximum usage" threshold to the Firm's assessment of SOQs and single-order notional value ("SONV") controls. This process was unreasonable because it could have resulted in inflated SOQ and SONV limits.
33. Second, from at least January 2019 through December 2023, Instinet applied price deviation controls for limit orders on two trading platforms, including the Firm's ATS, that were not reasonably designed because in some instances, they exceeded Nasdaq's CE thresholds. The Firm lacked any documentation of the basis or rationale for the settings.
34. Third, from at least January 2019 to the present, Instinet maintained single order quantity (SOQ) controls that were not reasonably designed because, for some clients, the Firm's limits exceeded Nasdaq's single-order size limits.⁵ Absent other reasonably designed controls, these limits were unreasonable.

Instinet failed to establish and maintain a reasonably designed price impact control for market orders.

35. During the Relevant Period, Instinet maintained a pre-order entry control to detect the potential price impacts of market orders routed through certain firm systems. However, the Firm failed to implement a similar control for all order routing systems it used. As a result, the Firm was able to enter an erroneous market order that resulted in a price decline that triggered a short sell circuit breaker, which limited any subsequent short sell orders through the following day.

⁵ Nasdaq Rule 4703(b) provides that an order "may be entered in any whole share size between one share and 999,999 shares."

36. The conduct in paragraphs 26 through 33 and 35 constitutes violations of Exchange Act Section 15(c)(3) and Exchange Act Rules 15c3-5(b), and 15c3-5(c)(1)(ii), and Nasdaq Rules 3010 and 2010A (for conduct before December 6, 2019) and Nasdaq General 9, Sections 20(a) and 1(a) (for conduct on or after December 6, 2019). The conduct in paragraph 34 constitutes a violation Exchange Act Section 15(c)(3), Exchange Act Rules 15c3-5(b) and 15c3-5(c)(2), and Nasdaq Rules 3010 and 2010A (for conduct before December 6, 2019) and Nasdaq General 9, Sections 20(a) and 1(a) (for conduct on or after December 6, 2019).

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

- a censure;
- a \$178,029 fine (resolved simultaneously with similar matters for a total fine of \$1,200,000);⁶ 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.

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 Nasdaq'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;

⁶ Those matters were brought on behalf of FINRA, BZX, BYX, EDGA, EDGX, IEX, MIAX PEARL, BX, PHLX, NYSE, NYSE Arca, NYSE American, NYSE Chicago, NYSE National, LTSE, and MEMX.

- 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 Nasdaq 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 prejudice of the Chief Regulatory Officer, the Nasdaq Review Council, or any member of the Nasdaq 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 Nasdaq Review Council, the Review Subcommittee, or the Office of Disciplinary Affairs ("ODA"), pursuant to Nasdaq 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 Nasdaq or any other regulator against the Firm;
 - 2. Nasdaq may release this AWC or make a public announcement concerning this agreement and the subject matter thereof in accordance with Nasdaq 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 Nasdaq, or to which Nasdaq 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 Nasdaq 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 Nasdaq, nor does it reflect the views of Nasdaq 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:

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Accepted by Nasdaq:

February 3, 2026

Date

Luis A. Prieto

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

Signed on behalf of Nasdaq by delegated
authority from the Director of ODA