

NASD
LETTER OF ACCEPTANCE, WAIVER AND CONSENT

20042000026-01

**TO: Department of Market Regulation
NASD**

**RE: INET ATS, Inc., Respondent
f/k/a The Island ECN, Inc.
Broker-Dealer
CRD No. 20746**

**Instinet, LLC, Respondent
Broker-Dealer
CRD No. 42886**

Pursuant to Rule 9216 of NASD Code of Procedure, INET ATS, Inc. ("INET"), formerly known as The Island ECN, Inc. ("ISLD"), and Instinet, LLC ("INCA") submit this Letter of Acceptance, Waiver and Consent ("AWC") for the purpose of proposing a settlement of the alleged rule violations described in Part II below. This AWC is submitted on the condition that, if accepted, NASD will not bring any future actions against INET or INCA alleging violations based on the same factual findings.

INET and INCA understand that:

1. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by NASD's Department of Market Regulation and National Adjudicatory Council ("NAC") Review Subcommittee or Office of Disciplinary Affairs ("ODA"), pursuant to NASD Rule 9216;
2. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against INET or INCA; and
3. If accepted:
 - a. this AWC will become part of INET's and INCA's permanent disciplinary record and may be considered in any future actions brought by NASD or any other regulator against INET or INCA;
 - b. this AWC will be made available through NASD's public disclosure program in response to public inquiries about INET's and INCA's disciplinary record;

- c. NASD may make a public announcement concerning this agreement and the subject matter thereof in accordance with NASD Rule 8310 and IM-8310-2; and
- d. INET and INCA 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 allegation in this AWC or create the impression that the AWC is without factual basis. Nothing in this provision affects INET's or INCA's testimonial obligations or right to take legal or factual positions in litigation or other legal proceedings in which NASD is not a party.

INET and INCA also understand that their experience in the securities industry and disciplinary history may be factors which will be considered in deciding whether to accept this AWC. That experience and relevant history are as follows:

ISLD / INET

INET has been a member of NASD since December 24, 1987. In November 2003, The Island ECN, Inc. changed its name to INET ATS, Inc. On February 9, 2004, an AWC became final wherein INET was fined \$5,000 for ACT reporting violations. On September 19, 2003, an AWC became final wherein INET was censured and fined \$20,000 for OATS and supervision violations.

INCA

INCA, CRD No. 14408, then known as Instinet Corporation [old], was a member of NASD from December 1983 through July 2000. In July 2000, through a corporate reorganization, the assets and business of INCA were transferred to an affiliated broker-dealer entity, CRD No. 42886, which at that point changed its name to Instinet Corporation [new]. Instinet Corporation [old] had its name changed to Reuters C Corp., and subsequently withdrew its broker-dealer registration. In January 2004, Instinet Corporation [new] was merged up and into Instinet, LLC, a new entity created with the purpose of being the surviving broker-dealer entity from its merger with Instinet Corporation [new]. INCA, now known as Instinet, LLC still carries the same CRD No. 42886. On July 24, 2000, an AWC became final wherein INCA was fined \$2,500 for short sale reporting violations.

I.

WAIVER OF PROCEDURAL RIGHTS

INET and INCA specifically and voluntarily waive the following rights granted under NASD's Code of Procedure:

- A. To have a Formal Complaint issued specifying the allegations against INET and INCA;
- 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 NAC and then to the U.S. Securities and Exchange Commission and a U.S. Court of Appeals.

Further, INET and INCA specifically and voluntarily waive any right to claim bias or prejudgment of the General Counsel, the NAC, or any member of the NAC, 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.

INET and INCA further specifically and voluntarily waive 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.

II.

ACCEPTANCE AND CONSENT

The staff of NASD's Department of Market Regulation ("staff") has conducted examinations and investigations¹ of INCA, ISLD and INET (collectively, the "Firms") regarding each firm's monthly reports on order execution practices produced pursuant to SEC Rule 11Ac1-5 ("execution reports"). In connection with these investigations and

¹ This matter includes two main components, violations relating to SEC Rule 11Ac1-5 and supervision thereof (the "execution reports component") and violations involving OATS, ADF, trading halts, ACT reporting and supervision (the "markets component"). The following reviews are included in the execution reports component: MRD200342053; MRD200342255; MRD200446870; and MRD200447952. The markets component encompasses the following reviews: MRD200237207 (MRD200342204); MRD200339838; MRD200342474; MRD200343195; MRD200343233; MRD200446325; MRD200449638; MRD200447952; 20050017904; 20050001206; and 20050000113.

examinations, the staff reviewed INCA's, INET's and ISLD's supervisory systems and written supervisory procedures regarding SEC Rule 11Ac1-5.

The staff acknowledges that during the course of the staff's reviews, INCA and INET undertook an independent investigation regarding the execution reports for each entity wherein INCA and INET waived the attorney-client privilege. INCA also made a number of employees and documents available in a relatively short time frame. The sanctions set forth below reflect the credit that INET and INCA have been given for conducting an investigation of this matter and providing the results of the investigation to NASD. This matter is a result of the NASD's investigations and examinations and INET's and INCA's own investigation.

The staff has also conducted several reviews, examinations and investigations of INCA and INET regarding participation in NASD's Alternative Display Facility ("ADF"), Order Audit Trail System ("OATS") reporting, ACT reporting, order reporting, supervision and the publication of quotations or indications of interest during trading halts. This matter is also a result of those reviews, investigations and examinations.

- A. INET and INCA hereby accept and consent, without admitting or denying the allegations or findings, and solely for the purposes of this proceeding and any other proceeding brought by or on behalf of NASD, or to which NASD 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 NASD:

SEC Rule 11Ac1-5

Summary and Background

INCA and ISLD published monthly execution reports beginning with reports for June 2001. INET's first execution report was for the month of January 2004. Although INCA had completed its acquisition of ISLD in September 2002, the two ECNs continued to operate as separate market centers and registered broker-dealers. Between December 2003 and February 2004, INCA and ISLD merged their ECN platforms, forming INET as the single remaining ECN. As is often the case following an acquisition, the combined organization engaged in significant downsizing and restructuring of reporting lines across the company. During November and December 2002, the combined company laid off approximately 300 employees at varying levels throughout the company. As a result of this downsizing, most of ISLD's small Legal and Compliance staff and several INCA Legal and Compliance personnel were terminated.

The execution reports published by INCA, ISLD and INET contained numerous errors from 2001 through 2004. All three entities relied heavily on automated systems to comply with the requirements of SEC Rule 11Ac1-5. However, the Firms did not adequately test the systems, did not adequately respond to repeated findings of errors in the published execution reports, and failed to implement adequate supervisory systems. The resources allocated by the Firms to supervision of this area were insufficient. As a result, NASD staff and third parties detected errors in the execution

reports before the Firms detected them. The effect of the erroneous reports varied. In many instances, the reporting errors resulted in execution quality statistics of the Firms being reported in a worse light than was actually the case. The execution reports of INCA, ISLD, and INET were particularly important to all market participants due to the high percentage of Nasdaq volume executed by the Firms. For example, in 2002 and 2003, trades executed on INCA accounted for between 12 and 30 percent of the monthly trading volume on Nasdaq.

INCA's Execution Reports

From June 2001 through February 2004, when INCA ceased to operate as an ECN, INCA experienced a wide range of problems with its execution reports, including: misclassification of shares, miscounting of cancelled shares, improper exclusion of orders, double counting of shares, improper calculations based on erroneous times, improper categorizing of orders, and erroneous treatment of message data as covered orders. The errors in INCA's reports stemmed from a variety of sources. In some instances programmers misinterpreted the rule. Systems errors also led to the improper handling of daylight savings time for a period of time. A change in the vendor used by INCA to supply market data caused still further errors. INCA relied entirely on one technology employee to produce its execution reports until INCA ceased to operate as an ECN. The automated system in place for the preparation of every execution report from June 2001 through November 2003 was flawed in at least one respect and some reports had more than three flaws². Although there were numerous errors in the execution reports, when each error was discovered the firm corrected the programming to eliminate the error on a going forward basis, but did not review the whole system for accuracy. Furthermore, in only a few instances did INCA review and repair previously posted execution reports.

ISLD's Execution Reports

Between June 2001 and January 2004, ISLD's execution reports contained significant errors, including misclassification of orders, inaccurate order execution information, incorrect calculation of spreads, and other calculation errors due to incomplete quote data. Problems with ISLD's time records and quote data caused order and execution data to be misclassified in the August 2002 execution report. Although an ISLD employee determined that the execution report for August 2002 contained errors because it was based on incomplete quote data, no follow-up review was conducted to determine if the incomplete quote data had affected other reports. Additional problems with timely and complete quote data continued to affect ISLD's execution reports throughout 2003. ISLD's execution report for March 2003 was contaminated by inclusion of data from March 2002. Finally, ISLD failed to post the execution reports for October and November 2003 in a timely manner.

² INCA has not determined which execution reports contained errors due to identified flaws in the automated system.

INET's Execution Reports

INET began publishing execution reports in January 2004. However, INET's execution reports covering the months of February through July 2004 contained multiple errors due to programming issues, including incorrect calculations for effective and realized spreads, improper determinations regarding orders receiving price-improvement, improper determinations regarding at-the-quote or outside-the-quote, misclassification of orders, failure to include all order execution information due to volume increases, and incorrect trade execution information due to use of an incorrect price divisor. NASD staff and numerous independent third parties identified errors and notified INET of the potential errors. INET ultimately reposted reports for February through May 2004, and in some instances, reposted multiple reports for the same month as new programming errors were identified. For example, INET's March 2004 execution report was reposted on five different occasions from June 2004 through November 2004 due to different errors. Upon notifications spanning from May 2004 through September 2004 provided by Nasdaq staff, an independent third party vendor and NASD staff, INET's technology employee researched each potential error. However, INET failed to reassess its entire program for producing its execution reports, thus leading to notifications each month about additional errors, even in reports that had been reposted already.

Quality of Markets

ADF Trade Reporting - INCA

During the period February 10 through February 27, 2003 ("ADF buy/sell review period"), INCA transmitted through NASD's Trade Reporting and Comparison Service ("TRACS") 1,404,686 two party last sale reports of transactions in Nasdaq National Market ("NNM") securities and, due to a systems flaw, failed to designate the correct symbol denoting whether each transaction, from the Reporting NASD Member's perspective, was a buy, sell, or cross. These transactions represent 100 percent of INCA's transactions reported to TRACS during the ADF buy/sell review period.

During the ADF buy/sell review period, INCA transmitted through TRACS 463,888 two party trade reports of short sale transactions in NNM securities and, due to a systems flaw, failed to designate the correct symbol denoting whether each transaction was a sell short or sell short exempt. Of these trade reports, 431,972 were from the Reporting NASD Member's perspective, and 31,916 were from the Non-Reporting Member's perspective. These transactions represent 100 percent of the short sales from the Reporting NASD Member's perspective and from the Non-Reporting Member's perspective reported by INCA to TRACS during the ADF buy/sell review period.

During the period February 10 through March 14, 2003 ("ADF trade reporting review period"), INCA transmitted through TRACS 1,076,474 two party trade reports of transactions in NNM securities and failed to designate the correct symbol denoting whether each transaction, from the perspective of the Non-Reporting Member, was principal, riskless principal, or agent. During the ADF trade reporting review period,

INCA transmitted through TRACS 2,297,340 two party trade reports of transactions in NNM securities and failed to identify for each transaction the market participant identifier of the Non-Reporting Member.

ADF Order Reporting - INCA

From July 21, 2003 through February 6, 2004, INCA failed to report to ADF the information described in NASD Marketplace Rule 4300A(b)(1) and/or (b)(2) for 11,057,402 orders and order responses from certain broker-dealers that INCA received via direct or indirect electronic access during the trading day after receipt of such orders or after any response to or action taken regarding an order. From October 14, 2002 through November 28, 2003, INCA submitted to ADF 498,260 order reports with the incorrect Order Entry Firm (OEID). Specifically, INCA populated the OEID field with its own market participant identifier, rather than the market participant identifier of the Order Entry Firm that sent the order to INCA.

ADF Firm Quotations - INCA

As a result of systems flaws, on tens of thousands of occasions between October 2002 and November 2003 an order was presented to INCA at INCA's published offer in an amount up to its published quotation size. INCA failed to execute each order upon presentment and thereby failed to honor its published quotation in each instance.

ACT and Trade Reporting - INET

In July 2004, from a sample of 30 transactions, the TMMS examination revealed that INET failed to report 16 short sale transactions to ACT with the short sale indicator. INET also failed to report the contra party to ACT in 24 instances.

From November 25, 2002 through May 7, 2003, INET failed to transmit timely through ACT 82,477 last sale reports of transactions in NNM, SmallCap, and Consolidated Quotation securities after execution.

Quoting Through a Trading Halt - INET

During the period April 14 through April 30, 2004, INET published 88 priced bids and offers in six securities traded on The Nasdaq Stock Market for which a trading halt was in effect. During the period November 1 through November 9, 2004, INET published 93 priced bids and offers in 14 securities for which a trading halt was in effect.

OATS - INCA

During the period April 1 through September 30, 2002, INCA transmitted to OATS 193,446,208 reports that contained inaccurate, incomplete, or improperly formatted data. Specifically, these reports failed to provide the Routing Firm Market Participant Identifier ("MPID") for New Order Reports and Cancel/Replace Reports transmitted to OATS. These inaccurate and/or incomplete reports represented 67 percent of all

New Order and Cancel Replace Reports transmitted by INCA during the period April 1, 2002 through September 30, 2002.

During the period April 1 through June 30, 2003, INCA submitted to OATS 5,741 reports (the "subject reports") that were not in the electronic form prescribed by NASD and were repairable. The subject reports were rejected by the OATS system and notice of such rejection was made available to the firm on the OATS website. The firm did not correct or replace 4,865 of the subject reports, or 85 percent of the subject reports.

During the period July 1, 2004 through September 30, 2004, INCA submitted to OATS 37,181 Report Order Events ("ROEs") with respect to cancelled equity securities transactions on the Nasdaq Stock Market (the "subject reports") that were not in the electronic form prescribed by NASD and were repairable. The underlying cause for the rejection of the subject reports for the cancellations was INCA's failure to report the new order reports for the initial transactions that were subsequently cancelled. The subject reports were rejected by the OATS system and notice of such rejection was made available to the firm on the OATS website. The firm did not correct or replace any of the subject cancellation reports.

OATS - INET

A Trading and Market Making Surveillance examination ("TMMS exam") of INET sampled 50 of the firm's OATS reports transmitted on July 22, 2004, and found that eight reports, or 16 percent of the sample, contained inaccurate, incomplete, or improperly formatted data. Specifically, the reports contained inaccurate special handling codes of "IOC".

Supervision

The Firms failed adequately to supervise the production of execution reports and the markets component areas described above. The Firms' supervisory systems did not have procedures in place reasonably designed to ensure that the technology used to comply with the rules was working as intended. This failure, in and of itself, constitutes a failure to supervise. Firms must test the results of technology-based solutions both before implementation and periodically afterwards.

Additionally, the response of the Firms upon learning of deficiencies in technology and supervision was insufficient. When alerted to several errors in the execution reports, the Firms fixed known errors and neglected to undertake a systematic review of the execution reports or the supervisory procedures. NASD examinations alerted the Firms to supervisory deficiencies that went uncorrected. The Firms did not designate a registered principal with supervisory responsibility and authority over compliance with SEC Rule 11Ac1-5. In summary, the Firms did not dedicate sufficient resources to supervision of either area.

The conduct described above constitutes violations by:

1. INCA of NASD Conduct Rules 2110, 3010, and 3320, NASD Marketplace Rules 4300A, 4632A, and 6955(a) and SEC Rules 11Ac1-5 and 11Ac1-1.
2. INET of NASD Conduct Rules 2110, 3010, and 3340, NASD Marketplace Rules 5430, 6130, 6420, and 6955 and SEC Rule 11Ac1-5.
3. ISLD of NASD Conduct Rules 2110 and 3010 and SEC Rule 11Ac1-5.

- B. INET and INCA also consent to the imposition, at a maximum, of the following sanctions:

A censure as to each firm, a joint and several fine of \$1,475,000 (composed of a \$700,000 fine for the SEC Rule 11Ac1-5 issues and supervision relating to SEC Rule 11Ac1-5 and a \$775,000 fine for the markets component and supervision relating to the markets component), and the following undertakings: an undertaking to revise INCA and INET's written supervisory procedures with respect to SEC Rule 11Ac1-5; an undertaking to revise INET's written supervisory procedures with respect to trading halts, best execution, limit order display, registration, trade reporting, short sales, OATS clock synchronization and Regulation ATS 5% and 20% calculations; and an undertaking to revise INCA's written supervisory procedures with respect to OATS. Within 45 business days of acceptance of this AWC by the NAC, a registered principal of each Respondent shall submit to the **COMPLIANCE ASSISTANT, LEGAL SECTION, MARKET REGULATION DEPARTMENT, 9509 KEY WEST AVENUE, ROCKVILLE, MD 20850**, a signed, dated letter, providing the following information: (1) a reference to this matter; (2) a representation that the Respondent has revised its written supervisory procedures to address the areas noted in this paragraph; and, (3) the date the revised procedures were implemented.

Respondents have also undertaken to:

1. In 2006, Respondents shall retain a third party regulatory auditor ("Regulatory Auditor") not unacceptable to the U.S. Securities and Exchange Commission ("Commission") staff to conduct a comprehensive regulatory audit of Respondents' compliance program relating to Rule 11Ac1-5, which shall be concluded by the end of the calendar year 2006.
 - a. Respondents shall require the Regulatory Auditor to assess (i) whether Respondents' policies and procedures are reasonably designed and effective to detect and deter violations of Rule 11Ac1-5, and (ii) whether Respondents are in substantial compliance with those policies and procedures.

- b. Respondents shall require the Regulatory Auditor to develop a written regulatory audit plan of sufficient scope and detail to achieve the regulatory audit objectives. In performing the regulatory audit, the Regulatory Auditor and other qualified persons hired by the Regulatory Auditor ("qualified persons") shall have or acquire within a reasonable period of time adequate knowledge and understanding of Respondents' policies and procedures. The Regulatory Auditor and the qualified persons shall exercise due professional care and independence in performing the regulatory audit. The Regulatory Auditor shall formulate conclusions concerning its assessment, as described in Paragraph 1.a. above, based on sufficient evidence that is obtained through, among other things, (i) inspection of documents, including written procedures, rules, and staff files, and (ii) interviews of appropriate personnel of Respondents. Respondents shall cooperate fully with the Regulatory Auditor and qualified persons and provide the Regulatory Auditor and qualified persons with access to their files, books, records (excluding any privileged documents), and staff as reasonably requested for the regulatory audit.
- c. No later than 45 days after the regulatory audit is concluded, Respondents shall require the Regulatory Auditor to submit to Respondents' Board of Directors and to the Director of OCIE, the Director of Market Regulation (the "Commission Officials") and to NASD, the Regulatory Auditor's conclusions concerning its assessment as to (i) whether each Respondent's policies and procedures are reasonably designed and effective to detect and deter violations of Rule 11Ac1-5, and (ii) whether each Respondent is in substantial compliance with the above-referenced policies and procedures.
- d. No later than 45 days after the regulatory audit is concluded, Respondents shall require that the Regulatory Auditor submit a regulatory audit report to Respondents' Board of Directors, to the Commission Officials and NASD (i) describing the purpose, scope and nature of the regulatory audit, and (ii) identifying any significant deficiencies or weaknesses in Respondents' policies and procedures with respect to Rule 11Ac1-5, or any failure to comply with those policies and procedures.
- e. Respondents shall bear the full expense of the regulatory audits.
- f. Respondents shall require the Regulatory Auditor to agree not to withhold from the Commission or the Commission's staff and NASD or NASD's staff any documents or information on the basis of any privilege or work product claims which the Regulatory Auditor may have in response to any of the Commission staff's or NASD's staff requests.

- g. Respondents shall require the Regulatory Auditor to enter into an agreement that provides that for the period of engagement and for a period of two years after completion of the engagement, the Regulatory Auditor shall not enter into any employment, consultant, attorney-client, auditing or other professional relationship with Respondents, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity. The agreement will also provide that the Regulatory Auditor will require that any firm with which he/she is affiliated or of which he/she is a member, and any person engaged to assist the Regulatory Auditor in performance of his/her duties under this Order shall not, without prior written consent of the Board of Directors, enter into any employment, consultant, attorney-client, auditing or other professional relationship with Respondents, or any of their present or former affiliates, directors, officers, employees, or agents acting in their capacity as such for the period of the engagement and for a period of two years after the engagement.
2. Respondents shall retain a third party, not unacceptable to the Commission staff, to confirm the accuracy of the Respondents' monthly Rule 11Ac1-5 Reports for a period of five years, provided however, that Respondents shall not be required to continue monthly audits if, after conducting the comprehensive regulatory audit in 2006, the Regulatory Auditor concludes, pursuant to paragraph 1.c. above, that Respondents (i) have policies and procedures with respect to Rule 11Ac1-5 reasonably designed and effective to detect and deter violations of Rule 11Ac1-5, and (ii) are in substantial compliance with such policies and procedures.
3. Notwithstanding the above, in the event that either or both Respondents shall cease being subject to the requirements of Rule 11Ac1-5 at any time during the period of 2006, such Respondent or Respondents shall not be required to retain or continue to engage a regulatory auditor or third party auditor pursuant to paragraphs 1 and 2 of these Undertakings.

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

III.

OTHER MATTERS

- A. **INET and INCA understand that they may attach a Corrective Action Statement to this AWC which is a statement of demonstrable corrective steps taken to prevent future misconduct. INET and INCA understand 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 NASD, nor does it reflect the views of NASD, or its staff.**
- B. **INET and INCA agree to pay any monetary sanctions imposed on INET and INCA upon notice that this AWC has been accepted and that such payments are due and payable, and have attached the Election of Payment form showing the method by which INET and INCA propose to pay any fine imposed.**
- C. **INET and INCA specifically and voluntarily waive any right to claim that INET or INCA is unable to pay, now or at any time hereafter, any monetary sanction imposed in this matter.**

INET ATS, Inc. and Instinet, LLC certify that they have read and understand all of the provisions of this AWC and have been given a full opportunity to ask questions about it, and that no offer, threat, inducement, or promise of any kind, other than the terms set forth herein, has been made to induce INET or INCA to submit it.

INET ATS, Inc.

SEPT. 27, 2005
Date

By: Paul A. Merolla
Name: PAUL A. MEROLLA
Title: GENERAL COUNSEL
+ SECRETARY

Instinet, LLC

SEPT. 27, 2005
Date

By: Paul A. Merolla
Name: PAUL A. MEROLLA
Title: GENERAL COUNSEL
+ SECRETARY

Reviewed by:

Paul A. Merolla
Counsel for Respondents

Accepted by NASD:

October 3, 2005
Date

Ivette Lopez
Ivette Lopez,
Vice President
Department of Market Regulation

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

Corrective Action Statement¹

Instinet Group, LLC ("INCA") and Inet ATS, Inc. ("INET") take very seriously their responsibilities as NASD member firms and their roles as significant participants in the U.S. securities markets. INCA and INET devote substantial resources towards ensuring their ongoing compliance with NASD and SEC rules and regulations. In response to the various issues raised by NASD exams, reviews, and investigations discussed in the AWC, INCA and INET have taken the following corrective actions:

Created a Technology Compliance Officer Position. INCA and INET have supplemented their current compliance procedures by hiring a compliance technology officer to serve as a liaison between the firms' technology and compliance personnel and to, among other things, prevent gaps between the firms' programming efforts and their regulatory responsibilities. Not only will such a position enhance the oversight function of technology and compliance issues generally, but it will also enhance the communication and coordination that is particularly necessary for substantial and difficult technological undertakings.

Designated Registered Principals in Regulatory Reporting Areas. INCA and INET each have designated registered principals with responsibility over each of the regulatory reporting areas discussed in the AWC.

Reemphasized the Importance and Supervision of Regulatory Reporting Obligations. INCA and INET management have reemphasized to the appropriate designated principals and other employees of the firms the importance of ensuring that their regulatory reporting obligations are fully met and that these obligations are properly supervised.

¹ This Corrective Action Statement is submitted by the Respondents, INCA and INET. It does not constitute factual or legal findings by NASD, nor does it reflect the views of NASD, or its staff.

Revising Written Supervisory Procedures. In addition, INCA and INET have revised and are in the process of further enhancing their written supervisory procedures in each of the specific areas discussed in the AWC to more clearly define supervisory responsibility over technology used in regulatory reporting.

Performed Independent Review of Rule 11Ac1-5 Reporting. Instinet retained an outside consultant, at its own expense, to conduct a thorough review and analysis of Rule 11Ac1-5 issues with respect to Instinet, Inet and Island, including the errors in the production of Rule 11Ac1-5 reports, and the adequacy of the firms' supervisory and compliance systems relating to Rule 11Ac1-5 reporting. Instinet voluntarily made available numerous employees and documents in a very short time frame, and waived the attorney-client privilege and the attorney work product privilege at the outset of the review. The outside consultant produced a comprehensive report that, among other things, responded to a number of questions posed by NASD staff.