

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2019063047801**

TO: Department of Enforcement
Financial Industry Regulatory Authority (FINRA)

RE: Instinet, LLC (Respondent)
Member Firm
CRD No. 7897

Pursuant to FINRA Rule 9216, Respondent Instinet, LLC 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, FINRA will not bring any future actions against Respondent alleging violations based on the same factual findings described in this AWC.

I.

ACCEPTANCE AND CONSENT

- A. Respondent accepts and consents to the following findings by FINRA without admitting or denying them:

BACKGROUND

Instinet has been a member of FINRA since January 1980. The firm is headquartered in New York, NY, and employs over 150 registered representatives across ten branch offices. Instinet provides market access, trading support, and execution services to institutional clients.

In April 2018, 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 FINRA Rules 3110 and 2010, and Section 15(c)(3) of the Securities Exchange Act of 1934, and Exchange Act Rule 15c3-5.¹ Among other findings, the SROs found that 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. The SROs also found that Instinet failed to have 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

¹ This matter was brought on behalf of 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 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).

thresholds, to prevent the entry of erroneous or duplicative orders and messaging, and 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.²

OVERVIEW

From at least January 2019 through the present, Instinet violated FINRA Rules 3110 and 2010 by failing to establish and maintain a supervisory system, including WSPs, that was reasonably designed to identify potentially manipulative trading by its clients.

During the same period, Instinet also 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 FINRA Rules 3110 and 2010.

For these violations, Instinet is censured, fined a total of \$1.2 million, of which \$178,027 is apportioned to FINRA; and assessed an undertaking to certify in writing that the firm has remediated the issues identified in this AWC and implemented a supervisory system, including WSPs, reasonably designed to achieve compliance with applicable rules.

FACTS AND VIOLATIVE CONDUCT

This matter originated from FINRA surveillance and a FINRA examination of Instinet.

Instinet’s Business and Surveillance Model

From at least January 2019 through the present, Instinet provided market access to domestic and foreign institutional clients and broker-dealers, some of which had multiple authorized traders.

Instinet used vendor-provided and proprietary systems to surveil for potentially manipulative trading by clients. The systems had some surveillance overlap (*e.g.*, each of the systems surveilled for wash trades), but each also provided unique surveillances, and in some cases, addressed different types of order flow.

Instinet failed to reasonably supervise for potentially manipulative trading.

FINRA Rule 3110(a) provides that “[e]ach member shall establish and maintain a system to supervise the activities of each associated person that is reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable FINRA rules.” FINRA Rule 3110(b) further requires each member to “establish, maintain, and enforce written procedures to supervise the types of business in which it engages and the

² For more information about the firm, including prior regulatory events, visit BrokerCheck® at www.finra.org/brokercheck.

activities of its associated persons that are reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable FINRA rules.”

A violation of FINRA Rule 3110 is also a violation of FINRA Rule 2010, which provides that each “member, in the conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade.”

Instinet did not reasonably surveil for certain forms of manipulation.

From at least January 2019 through the present, Instinet’s surveillance systems were not reasonably designed to supervise for potential manipulative trading.

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.

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 order with the intent to affect the security’s closing price. Although the firm had a control that tried to identify such orders, 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.

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. Prior to February 2020, the firm’s surveillance for ramping for OTC securities required, in part, that a client execute at least 30 trades in a symbol within 60 seconds to trigger an alert. This execution threshold was too high to detect potential ramping, which can be accomplished by fewer trades.

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.

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

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

client. However, until October 2019, 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.

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.

Instinet's review of its surveillance alerts also was not reasonably designed to identify potentially manipulative trading activity. 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 reviewed the report only to verify the number of buys and sells and overall total of the trades, which was not a reasonable review of the spoofing 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.

Additionally, Instinet failed to have reasonably designed WSPs regarding the 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.

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.

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 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.

From at least January 2019 through the present, 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, which would have been important for the reviewers to consider when reviewing the clients’ trading activity.

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. While both clients agreed to this restriction, Instinet unreasonably 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 WSPs were not reasonably designed.

From at least January 2019 through the present, Instinet’s surveillance reviews and procedures were unreasonable for several reasons. 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.

Therefore, Instinet violated FINRA Rules 3110 and 2010.

Instinet failed to establish, document, and maintain reasonable credit and erroneous order controls.

Exchange Act Section 15(c)(3) prohibits broker-dealers from contravening the rules and regulations prescribed by the Securities and Exchange Commission (SEC) to “provide safeguards with respect to the financial responsibility and related practices of brokers and 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.”⁴

⁴ See *Risk Management Controls for Brokers or Dealers with Market Access*, Exchange Act Release No. 34-63241, 12, 76 FR 38293 (Nov. 3, 2010) (hereinafter, the Adopting Release).

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.”

Exchange Act Rule 15c3-5(c)(1)(i) 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 orders that exceed appropriate pre-set credit or capital thresholds in the aggregate for each customer by rejecting orders that would exceed the applicable credit or capital thresholds.

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.

A violation of an Exchange Act rule is also a violation of FINRA Rule 2010.

The Adopting Release for Exchange Act Rule 15c3-5 stated that “a broker-dealer will be required to set appropriate credit thresholds for each customer for which it provides market access, including broker-dealer customers, and appropriate capital thresholds for proprietary trading by the broker-dealer itself.” Broker-dealers should make such determinations “based on appropriate due diligence as to the customer’s business, financial condition, trading patterns, and other matters, and document that decision.” Also, broker-dealers should “monitor on an ongoing basis whether the credit thresholds remain appropriate, and promptly make adjustments to them, and its controls and procedures, as warranted.”

The SEC explained in the Adopting Release 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.”

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 credit limits and procedures.

First, from at least January 2019 through July 2019, due to a coding issue, Instinet's pre-order entry controls did not prevent clients from entering orders that exceeded the client's aggregate credit limit where the firm trader manually directed an order to a trading center and included account allocation instructions. As a result, on at least 25 occasions, clients entered orders with values that exceeded the client's credit limits. Instinet remediated this coding issue in August 2019.

Second, from at least January 2019 through the present, Instinet's periodic assessment and documentation of client credit limits was unreasonable. From at least January 2019 to August 2020, Instinet assessed client credit limits on a semi-annual basis and focused on clients whose credit usage was less than a certain percentage of their six-month historical average. However, the firm did not document its contemporaneous rationale for why it did not adjust credit limits for six clients that met these criteria. Beginning in August 2020 and continuing to the present, Instinet assessed credit limits based on a certain percentage of a client's historical "maximum usage" relative to the preceding six months. However, the firm's implementation of the threshold was unreasonable because it considered temporary credit limit adjustments made in the preceding six months, which could have inflated clients' credit limits based on atypical trading activities. Moreover, Instinet's WSPs did not describe the firm's process of establishing credit limits at certain times during the relevant period. Additionally, the firm adjusted client credit limits in certain instances without reasonably documenting the basis for the adjustments. In March 2020, the firm began using a cloud-based software tool that allowed it to document requests and approvals for updates to credit limits. However, Instinet used prepopulated "reason codes" that were vague and, in some cases, the firm included no additional written analysis or explanation to support the change.

Third, from at least January 2019 to February 2022, the firm did not have a reasonable process for documenting and evaluating a client's aggregate credit limit. While Instinet reviewed each client's credit limit for order flow across different systems and market venues, the firm did not document the client's aggregate credit limit across all firm systems and market venues and had no process to review and assess the reasonableness of such aggregate limit.

Instinet failed to establish and maintain reasonably designed erroneous order controls.

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

First, since at least January 2019 to the present, 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.

Second, although the firm implemented an ADV control for the firm's other trading systems, the control only applied to orders in NMS securities that exceeded \$1 million in notional value, and to orders in OTC equity securities with a notional value exceeding \$50,000. These thresholds were unreasonable because erroneous orders can have notional values that is lower than these limits.

Third, Instinet set ADV thresholds without considering the trading characteristics of the relevant securities and that were, in certain instances, too permissive to detect potentially erroneous orders.

Fourth, from April 2023 through at least June 2024, Instinet applied a threshold to assess clients' ADV settings that was unreasonable because it included order volumes rejected by pre-existing ADV limits, which could have resulted in inflated ADV thresholds based on atypical trading activity.

Instinet lacked documentation supporting the basis or rationale for the thresholds described in the previous four paragraphs. In addition, absent other reasonably designed and documented size and price deviation controls, Instinet'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.

First, beginning in 2020, Instinet considered temporary limit adjustments while applying the "maximum usage" threshold to the firm's assessment of single order quantity (SOQ) and single-order notional value (SONV) controls. This process was unreasonable because it could have resulted in inflated SOQ and SONV limits.

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 FINRA's clearly erroneous numerical thresholds. The firm did not have any documentation of the basis or rationale for such settings.

Third, from at least January 2019 to the present, Instinet maintained SOQs controls that were not reasonably designed because, for some clients, these limits exceeded the SOQ limits of the exchanges. Absent other reasonably designed controls, these limits were unreasonable.

As a result of its failure to establish, document, and maintain reasonable credit and erroneous order controls, Instinet violated Exchange Act Section 15(c)(3) and Exchange Act Rules 15c3-5(b), 15c3-5(c)(1)(i), and 15c3-5(c)(1)(ii), and FINRA Rule 2010. As a result of its failure to establish, document, and maintain controls reasonably designed to ensure compliance with all exchange order size requirements, Instinet violated Exchange Act Section 15(c)(3), Exchange Act Rules 15c3-5(b) and 15c3-5(c)(2), and FINRA Rule 2010. By failing to establish and maintain a supervisory system reasonably designed to

achieve compliance with Exchange Act Rule 15c3-5, Instinet violated FINRA Rules 3110 and 2010.

B. Respondent also consents to the imposition of the following sanctions:

- a censure;
- a \$1.2 million total fine, of which \$178,027 is apportioned to FINRA;⁵ and
- an undertaking that, within 120 days of the date of the notice of acceptance of this AWC, a member of Respondent's senior management who is a registered principal of the firm shall certify in writing that, as of the date of the certification, the firm has remediated the issues identified in this AWC and implemented a supervisory system, including written supervisory procedures, reasonably designed to achieve compliance with applicable rules. The certification shall include a narrative description and supporting exhibits sufficient to demonstrate Respondent's remediation and implementation. FINRA staff may request further evidence of Respondent's remediation and implementation, and Respondent agrees to provide such evidence. Respondent shall submit the certification to Luis A. Prieto, Senior Counsel, 5200 Town Center Circle, Tower 1, Suite 200, Boca Raton, FL, 33486, with a copy to EnforcementNotice@finra.org. Upon written request showing good cause, FINRA staff may extend this deadline.

Respondent agrees to pay the monetary sanction upon notice that this AWC has been accepted and that such payment is due and payable. Respondent has submitted an Election of Payment form showing the method by which it proposes to pay the fine imposed.

Respondent specifically and voluntarily waives any right to claim an inability to pay, now or at any time after the execution of this AWC, the monetary sanction imposed in this matter.

The sanctions imposed in this AWC shall be effective on a date set by FINRA.

II.

WAIVER OF PROCEDURAL RIGHTS

Respondent specifically and voluntarily waives the following rights granted under FINRA's Code of Procedure:

A. To have a complaint issued specifying the allegations against it;

⁵ The remaining of the fine will be paid to BZX, BYX, EDGA, EDGX, IEX, Long-Term Stock Exchange, Inc., MEMX LLC, MIAX PEARL Equities, LLC, the Nasdaq Stock Market LLC, BX, PHLX, NYSE, NYSE Arca, NYSE American, NYSE Chicago, Inc., and NYSE National, Inc.

- B. To be notified of the 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 National Adjudicatory Council (NAC) 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 Legal Officer, 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 its acceptance or rejection.

Respondent further specifically and voluntarily waives any right to claim that a person violated the ex parte prohibitions of FINRA Rule 9143 or the separation of functions prohibitions of FINRA 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 NAC, a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs (ODA), pursuant to FINRA Rule 9216;
- B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against Respondent; and
- C. If accepted:
 - 1. this AWC will become part of Respondent's permanent disciplinary record and may be considered in any future action brought by FINRA or any other regulator against Respondent;
 - 2. this AWC will be made available through FINRA's public disclosure program in accordance with FINRA Rule 8313;
 - 3. FINRA may make a public announcement concerning this agreement and its subject matter in accordance with FINRA Rule 8313; and

4. 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 FINRA, or to which FINRA is a party, that is inconsistent with any part of this AWC. Nothing in this provision affects Respondent's right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party. Nothing in this provision affects Respondent's testimonial obligations in any litigation or other legal proceedings.

- 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 FINRA, nor does it reflect the views of FINRA.

The undersigned, on behalf of Respondent, certifies that a person duly authorized to act on Respondent's 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 Respondent 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 in this AWC and the prospect of avoiding the issuance of a complaint, has been made to induce Respondent to submit this AWC.

February 2, 2026

Date

David Sieradzki

Instinet, LLC

Respondent

Print Name: David Sieradzki

Title: General Counsel - Americas

Reviewed by:

William J. Barbera

William J. Barbera, Esq.

McDermott Will & Schulte LLP

919 Third Avenue

New York, NY 10022

212-756-2521

Counsel for Respondent

Accepted by FINRA:

February 3, 2026

Date

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

Luis A. Prieto

Luis A. Prieto
Senior Counsel
Barred in DC and MD
FINRA
Department of Enforcement
5200 Town Center Circle, Tower 1, Suite 200
Boca Raton, FL 33486