



DISCIPLINARY DECISION
Members Exchange LLC
Matter No. 2019063047807
Instinet, LLC

Pursuant to Exchange Rule 8.3, attached to and incorporated as part of this Decision is a Letter of Consent.

Applicable Rules

- 5.1 – Written Procedures

Sanction

A censure, a monetary fine in the amount of \$53,029.00, and an undertaking detailed in the attached Letter of Consent.

Effective Date

February 3, 2026

Adam Schwartz

Adam Schwartz, CRO

MEMBERS EXCHANGE LLC
LETTER OF CONSENT
No. 2019063047807

In the Matter of:

Instinet, LLC
309 West 49th Street
New York, NY 10019

Subject

Pursuant to the provisions of Members Exchange LLC (MEMX or the Exchange) Rule 8.3 – Expedited Proceeding, Instinet, LLC (the Firm) submits this Letter of Consent (LOC) for the purpose of proposing a settlement of the alleged rule violations described below.

Instinet, LLC neither admits nor denies that violations of MEMX rules have been committed, and the stipulation of facts and findings described in this LOC do not constitute such an admission.

BACKGROUND

1. The Firm became a Member of the Exchange in February 2022 and the Firm’s registration remain in effect.
2. The Firm is headquartered in New York, NY and employs over 140 registered representatives across nine branches. During the relevant periods, the Firm provided market access, trading support, and execution services to institutional customers.
3. In Matter No. 20130368360 (April 2018), Instinet consented to a censure, a cross-market 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 (Exchange Act), and Exchange Act Rule 15c3-5.¹ Among other findings, the SROs found that Instinet’s supervisory system, including its written supervisory procedures (WSPs), was not reasonably designed to identify potentially manipulative trading by its clients.
4. This matter originated from FINRA’s cross market surveillance and from referrals from other SROs.

¹ Matter No. 20130368360 was brought on behalf 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).

VIOLATIVE CONDUCT

Applicable Rules

5. During all relevant periods herein, the following rule was in full force and effect: Exchange Rule 5.1 – Written Procedures.
6. Exchange Rule 5.1 required each Member to “establish, maintain and enforce written procedures which will enable it to supervise properly the activities of associated persons of the Member and to assure their compliance with applicable securities laws, rules, regulations and statements of policy promulgated thereunder, with the rules of the designated self-regulatory organization, where appropriate, and with Exchange Rules.”

Instinet’s Business and Surveillance Model

7. From at least February 2022 through the present, Instinet provided market access to domestic and foreign institutional clients and broker-dealers, some of which had multiple authorized traders.
8. 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

Instinet did not reasonably surveil for certain forms of manipulation.

9. From at least February 2022 through the present, Instinet’s surveillance systems were not reasonably designed to supervise for potential manipulative trading.
10. First, from February 2022 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.
11. Second, Instinet implemented marking the close surveillances that included unreasonably 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, 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.

12. Third, Instinet implemented ramping² 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.
13. 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. This surveillance pattern was unreasonable because it focused on order routing rather than execution, and therefore it was not designed to detect scenarios where an order is rerouted by one market center to another, which could result in wash trades executed at the same market center.
14. Fifth, from at least February 2022 Instinet's surveillance systems were not reasonably designed to detect potential instances of layering and spoofing. Specifically, since at least February 2022, Instinet's layering surveillance required a pre-set minimum number of layered orders to occur within a defined number of seconds from the start of a layered pattern to trigger an alert. That pre-set threshold was unreasonable because layering and spoofing can occur with fewer non-bona fide orders over a longer time period.

Instinet failed to reasonably review surveillance alerts.

15. Instinet's review of its surveillance alerts also was not reasonably designed to identify potentially manipulative trading activity. From at least February 2022 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 alerts. Because the first-level reviewers marked the alerts with a disposition of no further action, the Firm's second-level reviewers also 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.
16. 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.
17. 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.
18. 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

² Ramping involves trading practices designed to artificially increase or decrease the price of a security, by creating a false impression of trading interest.

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.

19. From at least February 2020 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.
20. 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 WSPs were not reasonably designed.

21. Although the Firm maintained WSPs from at least February 2022 through the present that described the Firm's surveillance and reviews, the WSPs and the Firm's enforcement of them was unreasonable for several reasons. Instinet's WSPs relating to its surveillance for manipulation were inaccurate or incomplete. For example, from at least February 2022 through October 2023, Instinet incorrectly listed the parameters of an alert in another system as the parameters for a different alert type in multiple versions of its WSPs. Instinet learned of this error only after a regulator alerted the Firm to it.
22. The acts, practices and conduct described in Paragraphs 9 through 20 constitute violations of Exchange Rule 5.1 by the Firm, in that the Firm failed to establish, maintain, and enforce reasonably designed WSPs.

SANCTIONS

In light of the alleged rule violations described above, the Firm consents to the imposition of the following sanctions:

- a. A censure;

- b. A total monetary fine in the amount of \$1,200,000, of which \$53,029 is allocated to MEMX;³ and
- c. An undertaking that, within 120 days of the date of the notice of acceptance of this LOC, a member of Instinet'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 LOC and implemented a supervisory system, including WSPs, reasonably designed to achieve compliance with applicable rules. The certification shall include a narrative description and supporting exhibits sufficient to demonstrate Instinet's remediation and implementation. MEMX staff may request further evidence of Instinet's remediation and implementation, and Instinet agrees to provide such evidence. Instinet shall submit the certification to Luis A. Prieto, Senior Counsel, Luis.Prieto@finra.org, with a copy to EnforcementNotice@finra.org. Upon written request showing good cause, MEMX staff may extend this deadline.

If this LOC is accepted, the Firm acknowledges that it shall be bound by all terms, conditions, representations and acknowledgements of this LOC, and, in accordance with the provisions of MEMX Rule 8.3, waives the right to review or to defend against any of these allegations in a disciplinary hearing before a Hearing Panel. The Firm further waives the right to appeal any such decision to the Board of Directors, the U.S. Securities and Exchange Commission, a U.S. Federal District Court, or a U.S. Court of Appeals.

The Firm waives any right to claim bias or prejudgment of the Chief Regulatory Officer (CRO) in connection with the CRO's participation in discussions regarding the terms and conditions of this LOC, or other consideration of this LOC, including acceptance or rejection of this LOC. The Firm further waives any claim that a person violated the ex parte prohibitions of MEMX Rule 8.16, in connection with such person's participation in discussions regarding the terms and conditions of this LOC, or other consideration of this LOC, including its acceptance or rejection.

The Firm agrees to pay the monetary sanctions upon notice that this LOC has been accepted and that such payments are due and payable. The Firm specifically and voluntarily waives any right to claim that it is unable to pay, now or at any time hereafter, the monetary sanctions imposed in this matter.

The Firm understands that submission of this LOC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by the CRO, pursuant to MEMX Rule 8.3. If the LOC is not accepted, it will not be used as evidence to prove any of the allegations against the Firm.

The Firm understands and acknowledges that acceptance of this LOC will become part of its disciplinary record and may be considered in any future actions brought by MEMX or any other

³ The Firm will pay additional fines in connection with parallel settlement agreements between the Firm and FINRA, BZX, BYX, EDGA, EDGX, IEX, Long-Term Stock Exchange, Inc., MIAX PEARL Equities, LLC, the Nasdaq Stock Market LLC, BX, PHLX, NYSE, NYSE Arca, NYSE American, NYSE Chicago, Inc., and NYSE National, Inc.

regulator against the Firm. The LOC will be published on a website maintained by MEMX in accordance with MEMX Rule 8.18.

The Firm understands that it may not deny the charges or make any statement that is inconsistent with the LOC. The Firm may attach a Corrective Action Statement to this LOC that is a statement of demonstrable corrective steps taken to prevent future misconduct. Any such statement does not constitute factual or legal findings by MEMX, nor does it reflect the views of MEMX 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 LOC and has been given a full opportunity to ask questions about it; that it has agreed to the LOC's provisions voluntarily; and that no offer, threat, inducement, or promise of any kind, other than the terms set forth herein, has been made to induce the Firm to submit it.

Date: January 23, 2026

Instinet, LLC



Name: David Sieradzki

Title: General Counsel - Americas