

## Form ADV, Part 2A Brochure

August 31, 2020

This brochure provides information about the qualifications and business practices of Instinet, LLC (“ILLC” or the “firm”). If you have any questions about the contents of this brochure, please contact us at 212-310-9500. The information in this brochure has not been approved or verified by the United States Securities and Exchange Commission (the “SEC”) or by any state securities authority.

Investment adviser registration does not imply a certain level of skill or training.

Additional information about Instinet, LLC is also available on the SEC’s website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov). The searchable IARD/CRD number for Instinet, LLC is 7897.

# Form ADV Update

August 2020



## **ITEM 2: MATERIAL CHANGES**

This section will be updated each year with a discussion of material changes to the brochure since its last annual update to the brochure.

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## **ITEM 4: ADVISORY BUSINESS**

### **A. Firm Description**

Instinet, LLC (“ILLC” or the “firm”) provides agency-focused electronic trading and ancillary services to institutional clients and broker-dealers. ILLC registered with the U.S. Securities and Exchange Commission (“SEC”) as a broker-dealer in 1979, and as an investment adviser in 2016. It is indirectly owned by Instinet Holdings Incorporated (“IHI”), which is itself owned indirectly by Nomura Holdings, Inc. (“NHI”). NHI is a publicly traded company listed on the Tokyo and New York stock exchanges. NHI, together with its subsidiaries, is referenced herein as “Nomura” or the “Nomura Group” unless noted otherwise.

### **B. Description of Advisory Services**

In addition to broker-dealer services, the firm provides technical analysis, commentary and trading ideas regarding various financial and investment products including equities, indices, fixed-income securities, exchange-traded funds, crypt-currencies, foreign currencies and commodities for a fee to institutional clients. These services (collectively, the “Advisory Services”) may include any or all of the following:

- 1) *daily and intra-day reports* of unfolding market patterns and price movements,
- 2) *periodic analysis of significant trends* over a given week, month or quarter,
- 3) *access to technical analysts* for explanation and commentary on the daily reports and periodic analysis, and
- 4) *trading ideas* which may highlight a specific near-term catalyst or event impacting a company or a market that is anticipated to have a short-term price impact on the securities or financial instruments described therein.

The *daily and intra-day reports* and *periodic analysis* are provided to clients via email and typically include bullet commentary along with illustrative charts, data tables, and statistics drawn from publicly available resources. Occasionally, such analysis may focus on a single security and, when appropriate, provide directional scenarios using chart patterns, underlying trends and various technical indicators to derive price objectives (profit taking levels) and risk levels (stop losses). *Access to technical analysts* is provided via email, telephone and certain online platforms like Instant Bloomberg. The access allows clients to submit specific questions (e.g., on an underlying ratio, spread or complex trading structure) and get appropriate answers from ILLC’s personnel based upon technical analysis. *Trading ideas* are licensed to market professionals and/or provided to clients and can be delivered via email or an online platform, or integrated as an XML feed into the client’s website.

ILLC’s Advisory Services are designed to support professional investors, by complimenting their own investment expertise and their primary analysis and due diligence. None of the Advisory Services are research reports. Clients retain sole investment discretion and trading authority and are solely responsible for determining whether and how to utilize the outputs from the Advisory Services and are free to deviate from any such outputs. Advisory Services, including reports, analysts’ explanations and trading ideas, are, in all cases, general recommendations and delivered on an “as is” basis with no undertaking to update. ILLC’s Advisory Services are not rendered in relation to the securities holdings or other investments of any particular client and do not purport to meet the specific investment or trading objectives of any person receiving such services. Clients receiving Advisory Services are referred to herein as “Advisory Clients” and other ILLC clients are referred to as “Non-Advisory Clients”. As pertinent, Advisory Clients and Non-Advisory Clients are collectively referred to as “clients”.

ILLC's advisory relationships with Advisory Clients are strictly limited to the provision of Advisory Services. Any trades, transactions or orders that may be executed, routed or otherwise processed on behalf of Advisory Clients will be handled by ILLC solely in its capacity as a broker-dealer.

ILLC does not maintain investment advisory accounts for clients or provide discretionary investment advisory services. ILLC also does not maintain custody of Advisory Clients' assets or securities.

### **C. Availability of Customized Services to Individual Clients**

ILLC provides only impersonal advisory services, meaning that the Advisory Services are not tailored to the individual needs or investment objectives of clients. Consistent with this limitation, ILLC offers clients the ability to customize certain Advisory Services to their preferences. For example, ILLC provides customized trading ideas to institutional investors, including model portfolios, based on client-specified parameters. ILLC also provides customized commentary or analysis on a particular financial instrument, sector, index or market at the request of an Advisory Client. In addition, ILLC will take under consideration a request to provide a customized version of the above services or a different type of advisory services that would utilize our technical analysis and expertise. In these circumstances, a client may impose constraints or restrictions on such things as security types or asset classes. *Importantly, all customized Advisory Services are provided on an impersonal basis, without regard to whether a securities transaction or investment strategy is suitable for the Advisory Client or any particular person.* For additional information, please see Item 8.B "Risk of Loss" in this brochure.

Because advisory fees are negotiated separately with each client, ILLC can tailor the components of the package of services to meet the preferences of a given Advisory Client. Features, content (including data, assumptions, and research), length of term, permitted number of authorized recipients, usage limits, fees, legal terms and conditions, levels of analyst access, and other services and functionality will differ between packages.

### **D. Wrap Fee Programs**

ILLC does not provide portfolio management services in connection with any wrap fee programs.

### **E. Assets Under Management**

ILLC does not manage client assets.

## **ITEM 5: FEES AND COMPENSATION**

### **A. Advisory Fees and Compensation**

For its Advisory Services, ILLC may receive a cash fee ("advisory fee"). There is no basic fee schedule for Advisory Services. Advisory fees may or may not be established by a written agreement. Advisory Services may constitute eligible research under the safe harbor of Section 28(e) of the Securities Exchange Act of 1934 for use in connection with a client's investment decisions. In such cases, clients may compensate ILLC for Advisory Services through third party soft dollar arrangements (commission arrangements entered into by a client with other, unaffiliated broker-dealers). Third-party soft dollar arrangements include Commission Sharing Agreements ("CSAs") that ILLC enters with one or more broker-dealers, pursuant to which end-users of Advisory Services can pay ILLC for Advisory Services by directing trades through the participating broker-dealers.

ILLC identifies persons who pay for Advisory Services with soft dollar arrangements: (1) as Advisory Clients if paying with trades executed through an unaffiliated broker-dealer, and (2) as Non-Advisory Clients if paying with trades executed through ILLC. When ILLC provides Advisory Services to these Non-Advisory Clients, ILLC

ensures the Advisory Services are solely incidental to brokerage services without special compensation. All advisory fees are negotiated on a client-by-client basis and may be renegotiated at any time. Certain clients receive access to Advisory Services without paying an advisory fee given their relationship with Nomura, its business partners or ILLC.

## **B. Payment of Fees**

Advisory fees are billed to clients, or invoiced according to the client's CSA, at a frequency agreed with the client. ILLC does not deduct advisory fees from a client's brokerage account.

## **C. Other Fees and Expenses**

Other than advisory fees (described above), Advisory Clients do not pay ILLC any other types of fees or expenses in connection with ILLC's Advisory Services. However, the Advisory Services may prompt or contribute to an Advisory Client's decision to trade or invest. In that case, the Advisory Client will bear the costs associated with buying, selling and/or holding the relevant investment. Different investments have different costs to buy, sell and hold. These costs are explained in trade-specific or product-specific materials available from your broker.

*Brokerage and transaction costs:* ILLC's Advisory Services do not include any securities trading activities, on a discretionary basis or otherwise. Clients may choose to execute transactions through ILLC or its affiliates and, if so, will pay brokerage commissions and other transaction fees for those services, which are independent of the Advisory Services. ILLC's Advisory Clients have no obligation to send any order to ILLC for execution. For additional information concerning brokerage and transaction costs, see Item 12 "Brokerage Practices" in this brochure.

*Other investment costs:* If clients choose to hold investments as a result of the Advisory Services, they will pay fees to the broker-dealer or bank that custodies their assets and will, in the case of pooled investments (such as exchange-traded funds, closed-end funds, private funds, and mutual funds), also bear their proportionate share of fees paid at the fund level for managing, administering, distributing, sponsoring, promoting, licensing indices to, or servicing shareholders of the fund. In certain instances, affiliates of Nomura will receive fees or other compensation for these services, directly from the fund or indirectly from companies that share their fund-related revenue with a Nomura affiliate.

## **D. Prepayment of Fees**

Advisory Clients are not required to prepay fees. If an Advisory Client chooses to pay in advance, prepaid fees will not be refunded in the event Advisory Services are terminated before the end of the billing period, unless otherwise agreed in writing.

## **E. Compensation for Sale of Securities, Conflicts of Interest**

Certain of ILLC's Advisory Services, including the trading ideas, can prompt or contribute to trading decisions by Advisory Clients. ILLC and its employees receive transaction-based compensation in exchange for order handling and trade execution services.

This presents a conflict of interest and gives ILLC and its employees an incentive to provide Advisory Services that prompt or contribute to trading or investment decisions based on the compensation received, rather than on an Advisory Client's needs. ILLC seeks to address the conflict by disclosing it to you.

Advisory Clients are institutions that select the broker-dealers through which they transact. They are not obligated to trade through ILLC, regardless of their use of advisory communications or trading recommendations obtained from us. ILLC commission charges typically are disclosed to clients on a transactional basis.

ILLC's primary source of revenue is commissions and other compensation for the sale of investment products to its clients. In recent years, advisory fees represented less than half of ILLC's total revenue.

ILLC does not reduce its advisory fees to offset any commissions, markups or other revenue to ILLC or its affiliates that results when Advisory Services prompt or contribute to trading or investment decisions by Advisory Clients. When evaluating the reasonableness of ILLC's compensation for Advisory Services, you should take into consideration such additional revenue to ILLC and its affiliates.

## **ITEM 6: PERFORMANCE-BASED FEES AND SIDE-BY-SIDE MANAGEMENT**

Neither ILLC nor its employees receive fees based on a share of capital gains on, or capital appreciation of, the assets of a client (referred to as "performance-based fees"). However, certain Advisory Clients pay ILLC for trading ideas pursuant to formulas that consider the trading profits generated by trading ideas, whereas other clients pay for trading ideas pursuant to a single fee that covers multiple Advisory Services and does not consider trading profits. The difference in compensation structure incentivizes ILLC to favor Advisory Clients that pay an advisory fee based on trading profits, over Advisory Clients that do not, when disseminating certain trading ideas (e.g., ideas that are time sensitive or limited opportunities). We address this conflict by disclosing to you that Advisory Clients can experience material differences in performance as a result of differences in the content and timing with which Advisory Services are delivered to them.

## **ITEM 7: TYPES OF CLIENTS**

ILLC's Advisory Clients are institutional clients, such as investment advisers, banking or thrift institutions, pensions and profit sharing plans (but not the plan participants), broker-dealers, insurance companies, mutual funds, closed end funds, exchange traded funds, hedge funds, private equity funds, corporations, state or municipal governments and other entities. The Advisory Services are not intended for personal, family or household use and no individuals are accepted as Advisory Clients.

## **ITEM 8: METHODS OF ANALYSIS, INVESTMENT STRATEGIES AND RISK OF LOSS**

### **A. Methods of Analysis and Investment Strategies**

ILLC uses technical analysis (TA) to complement the expertise of professional investors by identifying when an asset or security is trending, and if it is, the probability of the trend's continuation. ILLC's technical analysts identify actionable chart setups with the goal of pointing out the potential for a breakout (through resistance) or a breakdown (through support). Technical analysts also frequently highlight when a financial asset becomes over-extended (overbought) or depressed (oversold), both of which increase the probability of a subsequent mean reversal.

Technical analysis focuses on movement in the price of an individual stock, not the company behind the stock or its profitability. If fundamental analysis describes how markets *should be acting* based on analysis of a company's financial statement-related data, then technical analysis reveals how markets *are acting* based on the current price action.

ILLC's technical analysts see predictive power in the intra-day or long-term movements of a particular stock, both on an absolute and relative basis (for example, relative to the overall market, sector, asset class or index). They analyze price trends and chart patterns for indications of a security's future price movement, with the objective of



identifying trading and investment opportunities. Technical analysis employs models and trading rules based on price and volume transformations, such as the relative strength index, moving averages, regressions, inter-market and intra-market price correlations, business cycles, stock market cycles or, classically, through recognition of chart patterns.

In order to provide informed investment opinions, ILLC technical analysts have a reasoned basis for any opinions, supported by the appropriate level of independent investigation, diligence, inquiry, analysis and judgment. Potential conflicts, both actual and perceived, may arise both internally and externally with clients, and it is ILLC's responsibility to acknowledge and manage those conflicts in a way that protects ILLC's clients and reputation.

Each technical analyst bases his or her analysis, commentary and trading ideas on public information, including research, market or price movements, recent news stories and other events. Their primary sources of information are charts and data (historical price and volume information) on publicly traded financial instruments, including equities, indices, fixed-income securities, exchange-traded funds, foreign currencies and commodities.

All Advisory Services are provided on a stand-alone basis, independent of any research reports or trading recommendations that may have been provided to the Advisory Client by others at ILLC, Nomura or elsewhere, and irrespective of the Advisory Client's investment or diversification objectives. The Advisory Services are prepared by individual technical analysts who are sales personnel of ILLC and not by the Nomura research department. **None of the Advisory Services are research reports.** The Advisory Services are not intended to be a complete analysis of all material facts regarding any security, issuer or industry. They do not provide information sufficient upon which to base an investment decision. Any information relating to the tax status of financial instruments discussed in ILLC's Advisory Services is not intended to provide tax advice or to be used by anyone to provide tax advice. Clients are urged to seek tax advice based on their particular circumstances from an independent tax professional.

## **B. Risk of Loss**

ILLC's Advisory Services cover a wide range of securities and investments. There can be no assurances that reliance on the Advisory Services by any client will generate positive returns.

*Technical Analysis:* As with other types of analysis, the predictive nature of technical analysis can vary greatly; models and rules are often modified and updated as new patterns and behaviors develop. Technical analysis does not aim by itself to determine the specific reasons for variations in the price or value of any security. Technical analysis may fail to account for certain material factors which may have affected or may in the future affect the securities, industries or markets involved. Technical analysis should not be regarded as a comprehensive evaluation of any industry, company or security. Relative to fundamental analysis, technical analysis may be more dependent on subjective judgment in deciding which pattern(s) a particular instrument reflects at a given time and what the interpretation of that pattern should be. Methods vary greatly and can be highly subjective; different technical analysts can sometimes make contradictory predictions from the same data.

*Impersonal advice:* ILLC's Advisory Services are not designed to meet the objectives or needs of specific clients or accounts. Even customized Advisory Services are provided on an impersonal basis, without regard to whether a securities transaction or investment strategy is suitable for any particular person or the Advisory Client. ILLC does not purport to consider any Advisory Client's overall financial situation or investment objectives, level of financial sophistication, or investment experience, or any tax, accounting, legal, regulatory, financial planning, or other similar considerations or status relevant to any analysis or investment. If that information is provided or becomes available to ILLC or a technical analyst, they will not use that information to personalize the Advisory Services to the financial situation, investment experience and investment objectives of the Advisory Client or a particular person. If a technical analyst asks for additional information when providing a customized Advisory Service, all such questions are intended to refine, not personalize, the trading ideas or customized commentary requested by the Advisory Client. Any request for customized commentary or analysis must be initiated by the Advisory Client, not ILLC or a technical analyst. Any customization of trading ideas, including model portfolios, must be based on

parameters specified by the Advisory Client. ILLC and its technical analysts do not assess the appropriateness, completeness, accuracy or importance of a client's proposed parameters or request for customized commentary.

*“As is” basis:* Each Advisory Service is provided on an “as is” basis, without assurance of future analysis or coverage. This means all commentary, reports and trading ideas are provided as of a particular point-in-time, and ILLC does not undertake to monitor, update or notify Advisory Clients of a subsequent correction or reversal as new patterns develop. It also means that ILLC and its technical analysts have complete discretion over the content they cover and may, at any time, discontinue coverage or change the nature of their coverage of a particular financial instrument, sector, index, market, etc. The access to technical analysts that ILLC provides clients is limited and not continuous or guaranteed. ILLC provides no assurance of a timely response to questions that Advisory Clients submit to a technical analyst. ILLC may decline to answer a question, or turn down a request to provide customized commentary or analysis, for any reason or no reason. Dissemination of each trading idea is discretionary, meaning ILLC assumes no obligation to provide an additional idea, or to monitor or update previously provided trading ideas. ILLC (or a particular technical analyst) may stop disseminating trading ideas or offering one or more Advisory Services at any time.

*Individual viewpoint:* None of the Advisory Services are research reports. The Advisory Services consist of opinions and views of individual ILLC technical analysts, which may be different from, or inconsistent with, the opinions and views of ILLC, its other technical analysts, the Nomura research department analysts, other Nomura sales personnel, or the proprietary positions of ILLC or Nomura. ILLC does not undertake to bring such other research reports, trading ideas or market commentary to the attention of an Advisory Client. The opinions and views that comprise the Advisory Services may be changed by ILLC's personnel at any time without notice. There can be no guarantee that your preferred technical analyst will continue to be available or continue to provide an Advisory Service.

*Differential access to information:* Given the customized nature, the Advisory Services will provide different Advisory Clients with different depths of analysis or a different specific focus and more frequent updates based on levels of service and fees selected by an Advisory Client. Furthermore, the reports and products that comprise the Advisory Services may reach conclusions, or contain opinions or estimates, that differ from those reached in other reports and products. Differences in the content and timing with which Advisory Services are delivered can result in material differences in the performance achieved by different Advisory Clients.

*Reliance on third parties and technology:* In providing Advisory Services, ILLC relies on third-party sources for information that it believes to be reliable, but in no way does ILLC guarantee the quality, accuracy and/or completeness of such third-party information. ILLC also relies on technology such as data feeds, email and online platforms in formulating and delivering its Advisory Services. Technical failures may prevent ILLC from obtaining crucial data inputs, or from timely delivering the Advisory Services to clients. The Internet is not a secure network and communications transmitted over the Internet may contain computer viruses or other defects, may not be accurately replicated on other systems or may be lost, blocked, intercepted, deleted or interfered with, without the knowledge of the sender or the intended recipients.

*Market risk and transaction costs:* If you choose to implement any of the trading ideas, investment recommendations or strategies of ILLC's Advisory Services, you will be subject to various risks, such as company-specific and market risks, which may result in a loss of principal invested. In addition, trading ideas that seek to generate returns from the trading of financial instruments, rather than from buying and holding investments, tend to have higher brokerage and other transaction costs and taxes which can reduce investment performance.

## **ITEM 9: DISCIPLINARY INFORMATION**

There have been no material disciplinary events relating to ILLC's investment advisory business or the integrity of its management. Descriptions of other disciplinary actions involving ILLC and its management affiliates are

reflected in ILLC's Form ADV, Part 1A, which is available at <http://www.adviserinfo.sec.gov> on the Investment Adviser Public Disclosure website, and in ILLC's Form BD, which is available at <http://brokercheck.finra.org/>.

## **ITEM 10: OTHER FINANCIAL INDUSTRY ACTIVITIES AND AFFILIATIONS**

ILLC is a wholly-owned, indirect subsidiary of IHI, which is in turn a wholly-owned, indirect subsidiary of NHI. ILLC identifies IHI, NHI and other entities and individuals who exercise a controlling influence over ILLC's management or policies, or who determine the general investment advice given to Advisory Clients, to be "management persons" of ILLC.

This section describes relationships or arrangements material to ILLC's advisory business that certain of its management persons have with other affiliates of Nomura. Additional information concerning these direct and indirect affiliates and related persons of ILLC, which include various other broker-dealers, investment companies, investment advisers and banking organizations, is provided in ILLC's Form ADV, Part 1A, which is available at <http://www.adviserinfo.sec.gov> on the Investment Adviser Public Disclosure website.

### **A. Broker-Dealer Registration Status**

ILLC is an SEC-registered broker-dealer and a member of FINRA and other self-regulatory organizations. Its principal business involves the provision of equity brokerage services. Certain of ILLC's management persons also are registered as broker-dealers or, in the case of individuals, as registered representatives of a broker-dealer.

### **B. Futures Commission Merchant ("FCM"), Commodity Pool Operator ("CPO"), or Commodity Trading Advisor ("CTA") Registration Status**

ILLC is not a registered FCM, CPO or a CTA and none of its management persons are registered as a FCM, CPO, CTA, or as an associated person of a CPO or CTA. A management person of ILLC is registered as an associated person of a FCM.

### **C. Material Relationships or Arrangements With ILLC's Affiliates**

ILLC representatives may suggest or recommend that clients, including Advisory Clients, use securities execution or other services and products offered by affiliates, purchase Advisory Services or products, or purchase securities underwritten by affiliates. Moreover, where ILLC acts as sales agent for securities underwritten by affiliates, ILLC will receive a percentage of the commissions associated with such sales. In addition, ILLC, its affiliates and their respective sales representatives will, as permitted by applicable law, receive compensation (the amount of which may vary) in connection with selling these products, services, and securities.

ILLC addresses these conflicts, which are described in greater detail in Item 12, through disclosure in this brochure. In addition, the firm has established a variety of restrictions, procedures and disclosures designed to address potential conflicts of interest – both those arising between and among client accounts as well as between client accounts on the one hand, and ILLC, its affiliates and their employees on the other hand.

Certain of ILLC's management persons are registered representatives of the firm and/or hold positions with the firm's affiliates. In these positions, those management persons may have some responsibility with respect to the business of these affiliates and the compensation of these management persons may be based, in part, upon the profitability of other parts of IHI and/or NHI. Consequently, in carrying out their roles at ILLC and these other entities, the management persons of ILLC are subject to the same or similar potential conflicts with the interests of clients that ILLC and these affiliates experience.

As a result of ILLC's information barriers and other policies, personnel providing Advisory Services will generally not have access, or will have limited access, to information and personnel in other areas of the firm and/or its

affiliates, and generally will not be able to develop or implement Advisory Services with the benefit of information held in these other areas. Nomura may make decisions or take (or refrain from taking) actions with respect to investments of the kind held by ILLC clients that may be adverse to ILLC clients. Information barriers may also exist between ILLC's business lines.

In addition, ILLC and its affiliates maintain one or more restricted lists of companies, whose securities are subject to certain trading prohibitions. ILLC personnel may be restricted from trading in an issuer's securities if the issuer is on the restricted lists or if ILLC or an affiliate otherwise has material, non-public information about the issuer. ILLC may be precluded from providing certain Advisory Services relating to securities of issuers on the restricted list, even if it otherwise may have chosen to do so or is requested to do so by a client.

ILLC has ownership interests in trading venues and exchanges which may create financial incentives for Nomura entities and/or their employees, including ILLC and its registered representatives, to recommend these venues or exchanges (or other brokers who use these venues or exchanges) for the execution of client trades.

Further, ILLC and Nomura may participate or invest, on its own behalf or on behalf of other clients, in transactions with issuers of securities that are mentioned in or the subject of Advisory Services. Investment advisers affiliated with ILLC also receive its Advisory Services and can rely upon the Advisory Services to make investment decisions for themselves and their clients. When Advisory Services contain actionable information that is time sensitive or presents a limited investment opportunity, ILLC and its affiliates have an incentive to use the Advisory Services to trade or invest on behalf of themselves or their clients before Advisory Clients do. As discussed in Item 8.B "Risk of Loss," clients may experience material differences in performance based on differences in the content and timing with which Advisory Services are delivered. ILLC seeks to mitigate the risks that timing of delivery of an Advisory Service could disadvantage unaffiliated Advisory Clients, relative to affiliated Advisory Clients, by distributing identical written content in two successive batches, first to unaffiliated Advisory Clients and then to the affiliated Advisory Clients (including employees of ILLC and Nomura).

Nomura may perform investment banking services for or solicit business from such issuers, and have a position or effect transactions, on its own behalf or on behalf of other clients, in the securities of such issuers and related derivatives. ILLC effects transactions primarily on an agency basis. It may act as a principal or riskless principal to correct bona fide errors, to fulfill non-standard settlement requests, to provide ADR services, to effect foreign exchange transactions, and in other situations that do not involve substantial proprietary trading or investment. Riskless principal transactions to perform non-standard settlements are identified as principal. Nomura may have acted as a manager or co-manager of a public offering of the securities that are mentioned in, or the subject of, Advisory Services, and currently may make a market in such securities, and buy or sell such securities with clients on a principal basis. ILLC may act as a selling agent for Nomura when Nomura acts as manager or co-manager of a public offering.

#### **D. Material Conflicts of Interest Relating to Other Investment Advisers**

ILLC does not recommend or select other investment advisers in connection with its Advisory Services. Employees of ILLC expect to inform Advisory Clients that research reports and other advisory services are available for purchase from an unaffiliated registered investment adviser. In providing these introductions, ILLC acts solely as a source of information for clients in this regard, without compensation. Advisory Clients should understand that ILLC is not recommending or endorsing the research reports or the advisory services of the unaffiliated adviser.

### **ITEM 11: CODE OF ETHICS, PARTICIPATION IN CLIENT TRANSACTIONS AND PERSONAL TRADING**

#### **A. Code of Ethics**

ILLC has adopted a code of conduct and a code of ethics (together, the "Code of Ethics") and various other policies and procedures designed to govern the professional activities of ILLC personnel and various aspects of their

private conduct, particularly that which could present conflicts of interest between the individuals and the firm or its clients. Those compendia include policies and procedures aimed at identifying and monitoring certain types of personal investments and outside activities that may create a potential or actual conflict of interest. Every ILLC employee must receive, read and annually acknowledge in writing compliance with these policies and procedures. For example, ILLC has policies and procedures that, among other things:

- 1) Impose pre-clearance and reporting obligations with respect to certain personal trading and place limitations on personal trading by employees, such as prohibiting employees from:
  - depriving client orders of priority, precedence or best execution as a result of personal trading;
  - personal trading in a security when they have knowledge of pending or potential client orders in the security, or where they have recommended or intend to recommend a client transaction in the security on the same day or at any point through the following trading day;
  - attempting to replicate client trading strategies; or
  - trading contrary to an Advisory Services recommendation to a client unless they have a permissible reason for doing so.
- 2) Require employees to maintain accounts at designated brokers and provide initial and monthly reports of securities holdings and transaction reports;
- 3) Prohibit employees from violating applicable laws; and
- 4) Require employees to promptly report any violations of these policies and procedures to the Legal and Compliance Department.

ILLC employees may open and retain personal trading accounts in accordance only with these policies and procedures.

Clients, or prospective clients, may, upon request, receive a copy of ILLC's Code of Ethics by contacting their client service representative or by calling the Legal & Compliance Department at (212) 310-9500 or via postal request addressed to:

Attention: Legal & Compliance Department

Instinet, LLC  
Worldwide Plaza  
309 West 49<sup>th</sup> Street  
New York, New York 10019

## **B. Recommendations of Securities in which ILLC or a Related Person Has a Material Financial Interest**

Nomura entities may invest for their own account in securities that are mentioned in, or the subject of, Advisory Services. ILLC may recommend to Advisory Clients securities in which ILLC or an affiliate also invests, on its own behalf or on behalf of its clients, or otherwise has a material financial interest (including securities of Nomura), or make such recommendations at or about the same time that ILLC or Nomura may buy or sell securities for its own account. To mitigate potential conflicts of interest, ILLC uses electronic permissions and other virtual information barriers to limit the sharing of information between personnel performing Advisory Services and personnel performing non-advisory activities. However, ILLC's advisory and non-advisory personnel share physical space and

are not restricted in communicating with one another. Non-advisory personnel could obtain advance knowledge of a recommendation or other actionable information before its dissemination to Advisory Clients. ILLC has established policies and procedures which generally prohibit technical analysts from owning, purchasing or selling any securities with respect to which he or she provides Advisory Services.

ILLC, through its personnel, may suggest or recommend that Advisory Clients also use ILLC's execution or other services, or similar services offered by affiliates. Similarly, ILLC personnel may suggest or recommend that Advisory Clients purchase ILLC products or products of an affiliate. Such products include registered investment companies or other collective funds, bank deposit products, securities, or other investment vehicles to which one or more Nomura entities may be an adviser, manager, sponsor, shareholder servicer, promoter or placement agent or may have issued, structured, licensed indices to, or underwritten such vehicle. Where ILLC's or its affiliates' services are used or products are purchased by Advisory Clients, ILLC and its affiliates may receive additional fees and compensation. ILLC personnel may, as permitted by applicable law, also receive compensation (the amount of which may vary) in connection with these products and services. Compensation received in connection with clients' purchase or sale of stocks, bonds, mutual funds, other securities or insurance products through ILLC or its affiliates may include commissions, spreads, markups and markdowns, and distribution or other fees.

### **C. Conflicts of Interests in Trading and Management**

As a broker-dealer effecting transactions on behalf of clients, including those clients who receive Advisory Services, ILLC or an affiliate may act as agent or as principal for its own account, as permitted by applicable law. ILLC effects transactions primarily on an agency basis. It may act as a principal or riskless principal to correct bona fide errors, to fulfill non-standard settlement requests, to provide ADR services, to effect foreign exchange transactions, and in other situations that do not involve substantial proprietary trading or investment. Riskless principal transactions to perform non-standard settlements are identified as principal. Similarly, ILLC or an affiliate may, in transactions involving such clients' securities, act as agent while also representing another client on the other side of the transaction (agency cross transactions). In addition, ILLC or its affiliates may have a position in, or enter purchase or sale orders for, securities recommended to clients in the normal course of its business as a broker-dealer. ILLC and/or its affiliates may profit from these positions or transactions in securities.

ILLC only provides impersonal advisory services, meaning that the Advisory Services are not tailored to the individual needs or investment objectives of clients. ILLC is not required to seek prior written consent before effecting transactions for Advisory Clients receiving solely impersonal advice, provided ILLC complies with the conditions of Rule 206(3)-1 under the Investment Advisers Act of 1940. Advisory Clients should understand that, if they use ILLC's services in connection with the purchase or sale of a security that is the subject of Advisory Service, ILLC may act as principal for its own account or as agent for another person. To the extent ILLC has a brokerage relationship with an Advisory Client to whom ILLC inadvertently provides personalized Advisory Services, ILLC may execute agency cross transactions for the client at ILLC's discretion, provided it obtains any required prior written consent from the client in accordance with Rule 206(3)-2 under the Investment Advisers Act of 1940.

You should note that ILLC, as a broker-dealer, may buy or sell securities, for clients or the firm, in a manner that may be different than recommendations included in ILLC's Advisory Services.

ILLC addresses these conflicts through disclosures in this brochure and internal controls designed to identify and manage appropriately potential conflicts of interest – both those arising between and among client accounts as well as between client accounts and ILLC's business. For example, ILLC personnel also are subject to personal trading restrictions as detailed in its policies and procedures and Code of Ethics. These policies and procedures and the Code of Ethics require ILLC personnel to pre-clear certain securities transactions, disclose their investment accounts, and provide or cause ILLC to receive annual holdings reports and quarterly transaction reports.

## **ITEM 12: BROKERAGE PRACTICES**

ILLC's Advisory Services do not include execution services, and ILLC does not select broker-dealers with respect to trades placed by Advisory Clients. ILLC's Advisory Clients select the firm through which they execute trades, and have no obligation to trade through ILLC.

However, as described in Item 10.C., ILLC and its representatives do make recommendations of broker-dealers to clients, including Advisory Clients. When recommending a broker-dealer, ILLC and its representatives give preference to itself and affiliated broker-dealers.

Recommending an affiliated broker-dealer (including ourselves) presents a conflict of interest, as the affiliated broker-dealer could use its discretion to maximize profits to Nomura rather than give you disinterested advice. The result may be worse execution than what you would have otherwise received.

*Order routing:* An affiliated broker-dealer has an incentive to route your orders to:

- other affiliated broker-dealers in the U.S. and other jurisdictions, as this typically provides Nomura companies with greater aggregate revenue than if using unaffiliated broker-dealers;
- one of the internal trading venues that Nomura operates or owns, as Nomura typically receives a commission from both sides of any resulting transaction;
- the market center that provides Nomura with the largest rebate or similar payment for order flow, rather than other market centers which pay less or nothing for orders.

*Preferencing certain clients:* When effecting agency crosses, an affiliated broker-dealer has an incentive to preference the account of a client that represent larger sources of revenue to Nomura than you or other clients (e.g., by effecting a cross at a price more favorable to the other party).

*Principal Trading.* When acting as principal to effect transactions or facilitate non-standard settlement requests, an affiliated broker-dealer has an incentive to effect the transaction at a price that is most favorable to Nomura rather than you or other clients.

ILLC does not consider, when recommending broker-dealers, whether ILLC or Nomura affiliates receive referrals of Advisory Clients from the broker-dealer.

## **ITEM 13: REVIEW OF ACCOUNTS**

ILLC does not maintain client advisory accounts and does not provide personalized investment advice with respect to investment portfolios or the management of assets. Accordingly, there are no periodic reviews and no reports to clients regarding advisory accounts.

## **ITEM 14: CLIENT REFERRALS AND OTHER COMPENSATION**

### **A. Economic Benefits for Providing Services to Clients**

The Nomura Group may have a variety of banking, financial, or service relationships with the unaffiliated issuers of the securities covered by ILLC's Advisory Services. Those relationships may include Nomura acting as an underwriter for the issuers of the securities covered by the Advisory Services, and they may result in compensation of Nomura Group affiliates. In such relationships, ILLC may receive compensation. ILLC discloses, in accordance

with applicable law and regulation, its conflicts of interest and those of its technical analysts that are or may be material in the context of the relevant Advisory Service.

ILLC does not receive any economic benefit from persons other than Advisory Clients for providing Advisory Services to such clients.

### **B. Direct or Indirect Compensation for Client Referrals**

ILLC does not directly compensate any person for Advisory Client referrals, other than associated persons subject to ILLC's system of supervision. Nomura may have business arrangements that incentivize third parties to refer or recommend clients to ILLC and other Nomura companies. This presents a conflict of interest by encouraging third parties to refer clients to ILLC to maximize their profits rather than give disinterested advice. Nomura, not the client, bears the cost of any incentive that Nomura offers to third parties to encourage referrals.

### **ITEM 15: CUSTODY**

ILLC does not maintain custody of advisory client funds or securities in connection with its Advisory Services.

### **ITEM 16: INVESTMENT DISCRETION**

ILLC does not have discretionary authority to manage securities on behalf of Advisory Clients. ILLC's Advisory Clients make their own investment decisions.

### **ITEM 17: VOTING CLIENT SECURITIES**

With respect to Advisory Services, ILLC does not have authority to vote proxies.

### **ITEM 18: FINANCIAL INFORMATION**

ILLC has no financial condition that impairs its ability to meet contractual and fiduciary commitments to clients, and has not been the subject of a bankruptcy proceeding.