

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 9887 / August 12, 2015

SECURITIES EXCHANGE ACT OF 1934
Release No. 75672 / August 12, 2015

ADMINISTRATIVE PROCEEDING
File No. 3-16742

In the Matter of

ITG INC. and
ALTERNET SECURITIES,
INC.,

Respondents.

**ORDER INSTITUTING ADMINISTRATIVE
AND CEASE-AND-DESIST PROCEEDINGS,
PURSUANT TO 8A OF THE SECURITIES
ACT OF 1933, AND SECTIONS 15(b) AND
21C OF THE SECURITIES EXCHANGE
ACT OF 1934, MAKING FINDINGS AND
IMPOSING REMEDIAL SANCTIONS AND
A CEASE-AND-DESIST ORDER**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 8A of the Securities Act of 1933 (“Securities Act”) and Sections 15(b) and 21C of the Securities Exchange Act of 1934 (“Exchange Act”) against ITG Inc. and AlterNet Securities, Inc. (“AlterNet”) (collectively, “ITG” or “Respondents”).

II.

In anticipation of the institution of these proceedings, Respondents have each submitted an Offer of Settlement (“Offer”) which the Commission has determined to accept. Respondents admit the facts set forth in paragraphs 11 through 71 below, acknowledge that their conduct violated the federal securities laws, admit the Commission’s jurisdiction over them and the subject matter of these proceedings, and consent to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933 and Sections 15(b) and 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order, as set forth below.

III.

On the basis of this Order and Respondents' Offers, the Commission finds¹ that:

Summary

1. This matter involves violations of the federal securities laws by ITG in the operation of its dark pool and its misuse of customer information between April 2010 and July 2011.

2. ITG Inc. is the owner and operator of POSIT, an alternative trading system ("ATS") commonly referred to as a "dark pool."² POSIT is not a registered national securities exchange, but is a private execution venue that accepts, matches, and executes orders to buy and sell equity securities that it receives from ITG customers and POSIT subscribers. As of March 31, 2015, POSIT was the ninth largest ATS as measured by dollar volume of executions with over \$109 billion in executions during the first quarter of 2015. During that same quarter, ITG executed trades for over 5.6 billion shares in POSIT.

3. AlterNet is an affiliate of ITG, Inc. ITG – including both ITG Inc. and AlterNet – provides brokerage services to customers through ITG's suite of trading algorithms and smart order routers, and also provides equity research services. ITG's trading algorithms and smart order routers send orders to various market centers for execution including, POSIT, exchanges and other dark pools.

4. Between approximately April 2010 and July 2011, ITG violated the federal securities laws and regulations in multiple ways as a result of its operation of an undisclosed proprietary trading desk known within ITG as "Project Omega" ("Project Omega" or "Omega"). During the period of April to December 2010, Project Omega accessed live feeds of ITG customer and POSIT subscriber order and execution information and traded algorithmically based on that information in POSIT and in other market centers. In connection with one of its trading strategies, Project Omega identified and traded with sell-side subscribers in POSIT and ensured that those subscribers' orders were configured in POSIT to trade "aggressively," or in a manner that

¹ The findings herein are made pursuant to Respondents' respective Offers and are not binding on any other person or entity in this or any other proceeding.

² Rule 300(a) of Regulation ATS promulgated under the Exchange Act provides that an ATS is "any organization, association, person, group of persons, or system: (1) [t]hat constitutes, maintains, or provides a market place or facilities for bringing together purchasers and sellers of securities or for otherwise performing with respect to securities the functions commonly performed by a stock exchange within the meaning of [Exchange Act Rule 3b-16]; and (2) [t]hat does not: (i) [s]et rules governing the conduct of subscribers other than the conduct of subscribers' trading on such [ATS]; or (ii) [d]iscipline subscribers other than by exclusion from trading." Regulation ATS, Rule 300(a), 17 C.F.R. § 242.300(a). Rule 301(a) of Regulation ATS provides that an ATS must comply with Rule 301(b) of Regulation ATS, unless the ATS is registered as a national securities exchange or qualifies for another enumerated exclusion. During the relevant period, POSIT was not registered as a national securities exchange and did not qualify for an enumerated exclusion. Therefore, it was required to comply with Rule 301(b) of Regulation ATS, including Rule 301(b) thereunder, to benefit from the exemption from the definition of "exchange" set forth in Rule 3a1-1(a)(2) under the Exchange Act.

benefitted Omega by enabling it to earn the full “bid-ask spread” when taking the other side of their orders.

5. Project Omega, which operated as part of AlterNet, traded a total of approximately 1.3 billion shares, including approximately 262 million shares with subscribers in POSIT. ITG’s proprietary trading gross revenues resulting from Project Omega totaled approximately \$2,081,304.

6. While Project Omega was engaging in proprietary trading, including with ITG’s own customers, ITG was simultaneously promoting itself, and POSIT, as an independent “agency-only” broker that did not have conflicts of interest with its customers and that protected the confidentiality of its customers’ trade information.

7. Project Omega was managed and overseen by an ITG senior executive who at the time served as the firm’s Head of Liquidity Management (the “Liquidity Executive”). The Liquidity Executive designed and directed Omega’s trading strategies even though they violated written policies set by ITG’s compliance department restricting Omega’s access to customer information.

8. ITG Inc. and AlterNet violated Sections 17(a)(2) and 17(a)(3) of the Securities Act by engaging in a course of business that operated as a fraud and by failing to disclose to ITG customers and POSIT subscribers, among other things, that: (i) ITG was operating a proprietary trading desk while at the same time promoting its brokerage services and POSIT by describing ITG as an independent “agency-only” broker; (ii) the proprietary trading desk, until December 2010, accessed live feeds of highly confidential order and execution information and used this information to inform its own trading decisions; and (iii) one of the proprietary trading desk’s strategies involved identifying sell-side subscribers with which the desk wanted to trade in POSIT, and ensuring that those subscribers’ orders were configured to trade “aggressively” in POSIT.

9. ITG Inc. violated Rule 301(b)(2) of Regulation ATS by failing to file an amendment on Form ATS at least 20 days before it launched Project Omega disclosing the commencement of its proprietary trading activities and that one of its primary trading strategies would involve accessing confidential information regarding subscribers’ identities and orders and trading algorithmically based on a live feed of highly confidential information regarding open orders bound for the POSIT dark pool.³

10. ITG Inc. violated Rule 301(b)(10) of Regulation ATS by failing to establish adequate safeguards and procedures to protect the confidential trading information of the subscribers to POSIT. Among other things, ITG Inc. violated Rule 301(b)(10) by failing to limit access to the confidential trading information of POSIT subscribers to those employees who were operating POSIT or responsible for its compliance with applicable rules. Instead, ITG Inc. permitted employees operating Omega to access information regarding POSIT subscribers and their orders, and did not take adequate steps to prevent Project Omega from accessing a live feed of

³ Filed with the Commission pursuant to Rule 301(b)(2) of Regulation ATS, a Form ATS is a confidential document that an ATS uses to notify the Commission of its operations.

highly confidential information regarding sell-side subscribers' orders bound for POSIT and utilizing that information for the benefit of Project Omega's trading activities.

Respondents

11. **ITG Inc.** is a Delaware corporation and a subsidiary of Investment Technology Group, Inc. ("Group"), a publicly-traded corporation whose equity securities are listed on the New York Stock Exchange. ITG Inc. is registered with the Commission as a broker-dealer and its principal executive offices are in New York, New York. Since 1987, ITG Inc. has operated POSIT, an alternative trading system. POSIT is subject to the requirements of Regulation ATS.

12. **AlterNet** is a Delaware corporation and a subsidiary of Group with its principal executive offices in New York, New York. AlterNet is a broker-dealer registered with the Commission.

Facts

Background

13. ITG has historically operated and marketed itself, and has a reputation as, an independent "agency-only" brokerage firm. This designation was meant to convey that the firm did not engage in proprietary trading for its own account.

14. ITG's core business has historically been focused on providing brokerage services, including POSIT access, to "buy-side" customers and, in more recent years, to "sell-side" customers, as well. At ITG, customers that are either unregistered or registered with the Commission as investment advisers, such as asset managers, pension funds and hedge funds, are considered "buy-side" customers, while customers that are registered with the Commission as broker-dealers are considered "sell-side" customers.

15. For the most part, ITG's sell-side customers are serviced as customers of AlterNet, while buy-side customers are serviced as customers of ITG Inc. For all practical purposes, AlterNet and ITG Inc. operate internally as the same entity, sharing the same office space and technology infrastructure, as well as the same employees, including members of the firms' senior management and compliance departments, most of whom work on business initiatives applicable to both ITG Inc. and AlterNet.

16. For the year ending on December 31, 2014, Group, the parent company of both ITG Inc. and AlterNet, reported revenues of approximately \$560,000,000 and net income of approximately \$51,000,000.

POSIT and the Confidentiality of Customer Order Information

17. ITG formed POSIT as one of the first dark pools to allow for anonymous and confidential matching of subscriber orders. POSIT subscribers include asset managers, broker-

dealers and institutional investors, who may place trades on behalf of various types of investors including pension funds and individuals with retail brokerage accounts.

18. A dark pool is a type of alternative trading system that does not display information regarding the orders placed into the pool for execution or the identities of subscribers that are trading in the pool. Dark pools are often used by market participants that seek to minimize the negative price impact of their own trading. Dark pools are sometimes preferred over the displayed markets where the display of orders to buy or sell securities can have a negative impact on the prices of securities.

19. Throughout the relevant time period, ITG publicly disclosed that POSIT, as a dark pool, maintained the confidentiality of orders placed into the pool for execution and the identities of the subscribers that were participants in the dark pool.

20. From April 2010 to July 2011, at least 140 employees of ITG had access to confidential trading information of POSIT subscribers. Most of these employees worked in the areas of information technology, software development and technical support. The individuals to whom ITG provided POSIT access included employees of ITG or ITG affiliates who were working not only on POSIT but also on the systems that supported POSIT or on ITG's customer order management systems. Among others, during this time period, ITG provided POSIT access to a number of individuals in ITG's customer-facing sales and trading business unit and to at least three hourly interns.

21. ITG did not make any disclosure in any of its Form ATS filings regarding Project Omega or Project Omega's proprietary trading activities.

ITG Launched a Proprietary Trading Desk in Early 2010.

22. During the period of late 2009 to early 2010, ITG explored initiatives to increase diversification and revenues for the firm, including launching a proprietary trading operation that would engage in algorithmic high frequency trading. Thereafter, on the recommendation of senior management, Group's Board of Directors approved a proprietary trading desk that was limited in scope to inform whether ITG should launch a fully-scaled and disclosed proprietary trading operation. This initiative at ITG, which was managed by the Liquidity Executive, became known as Project Omega.

23. When he began managing Project Omega, the Liquidity Executive had overall product management responsibility for all of ITG's electronic brokerage products, including its entire suite of trading algorithms, its smart order routers, and for the POSIT dark pool.⁴ Prior to becoming Head of Liquidity Management in 2009, for several years the Liquidity Executive had been the Head of Product Management for ITG's algorithmic trading group. In that role, he was

⁴ At ITG, employees and executives in the product management area serve as conduits between customers and customer-facing salespeople, on one hand, and the software developers in the technology area, on the other hand, and provide direction to the software development team to enable it to effectively design and implement modifications to ITG's product offerings including ITG's trading algorithms, smart order routers and POSIT.

responsible for designing and building ITG's entire suite of trading algorithms and managing a team of software developers who wrote the computer code for the algorithms.

24. The Liquidity Executive assembled a team to work on Project Omega. In addition to the Liquidity Executive, the core team consisted of two primary software developers, one of whom had previously worked as a code writer in ITG's algorithmic trading group, a junior ITG employee who had previously worked in the product management area of the algorithmic trading group but was directed to be Omega's Series 24 supervisor (the "Series 24"), and another employee who also worked in the product management area of ITG's algorithmic trading group and worked on Project Omega during the first half of 2010.⁵

25. None of the Omega team members had experience with proprietary trading. Instead, the Omega team consisted almost entirely of ITG employees with significant experience in ITG's algorithmic trading group designing, building and/or writing computer code for ITG's trading algorithms. Based on that experience, the Omega team had detailed knowledge regarding how ITG's algorithms operated.

Project Omega Was Kept Confidential.

26. From the start, and during the entire time it was in operation, Project Omega's existence and trading activities were kept confidential and were not disclosed to ITG customers or POSIT subscribers or to the Commission.

27. Proprietary trading represented a significant departure from ITG's core "agency-only" business model and public profile, and ITG had concerns that Project Omega or proprietary trading at ITG could result in reputational risk for the firm. If ITG decided to increase the scale of Omega's proprietary trading activities, ITG planned to disclose its existence publicly and to customers at that time. However, before reaching that point, ITG decided that Project Omega and its proprietary trading activities were to be kept confidential.

28. Even within ITG, Project Omega was only to be discussed on a "need-to-know" basis, and even the customer-facing side of ITG was not informed of Omega's existence.

ITG Issued Policies Regarding Project Omega's Operations but Did Not Effectively Wall Off Project Omega from Confidential Trading Information.

29. From January through March 2010, at the Liquidity Executive's direction, the Omega team planned and designed trading strategies and wrote computer algorithms and engaged in simulated (not live) trading.

⁵ The General Securities Principal Examination, also referred to as the Series 24 examination, is administered by the Financial Industry Regulatory Authority (FINRA) and measures the degree to which an individual possesses the knowledge needed to perform the critical functions of a general securities principal, including the rules and statutory provisions applicable to the supervisory management of a general securities broker-dealer. The examination covers supervision of registration of broker-dealer and personnel management activities, general broker-dealer activities, retail and institutional customer-related activities, trading and market making activities and investment banking and research activities.

30. In April 2010, Project Omega began live trading as part of an “alpha test phase” that ran from April 5, 2010 to April 19, 2010. After the “alpha test phase,” the Omega team analyzed its trading activity and its profitability and worked to refine its strategies.

31. In June 2010, Project Omega resumed live trading, having completed the “alpha test phase.”

32. At the beginning of both the “alpha test phase” in April 2010 and when Project Omega resumed live trading in June 2010, ITG’s compliance department issued written policies to the Liquidity Executive setting forth Project Omega’s operating parameters. Among other things, these policies dealt with financial risk limits and information barriers – particularly with regard to prohibiting Project Omega from accessing customer order and execution information, including order information residing in POSIT.

33. Project Omega was subject to the limitation that its total open positions could not exceed \$500,000 at any time. In addition, it was designed to trade only against the orders of sell-side subscribers in POSIT, and not against buy-side subscribers. Based on these limitations, and that ITG initiated Project Omega to determine whether it could profitably engage in proprietary trading and/or market making on a larger scale, ITG considered Project Omega to be an “experiment.”

34. A memorandum dated April 1, 2010 from the compliance department to the Liquidity Executive stated, among other things, that: “OMEGA will not have access to information regarding POSIT order flow.” Similarly, a memorandum dated June 7, 2010 from the compliance department to the Liquidity Executive stated, among other things, that ITG “must ensure that OMEGA will not have access to information regarding ITG (includes POSIT) and/or AlterNet buy-side or sell-side customer order flow.” The June 7, 2010 memorandum also provided that Omega “may not coordinate trading strategies or share order flow and/or execution information” with employees not working on Project Omega.

35. When the Liquidity Executive began managing Project Omega, he was not walled off from any confidential trading information. He did not relinquish any of his existing management responsibilities with respect to POSIT, ITG algorithms or smart order routers, and he continued to have access to confidential trading information of POSIT subscribers in his role as Head of Liquidity Management.

36. After Project Omega began operating, the two primary software developers working on Project Omega were given workspaces in an “Omega office,” which was on the same floor as their former workspaces where ITG’s software development team worked (and was on a different floor from the ITG trading floor). The Series 24 was also provided with a workspace in the “Omega” office, but he retained his former cubicle in the customer-facing algorithmic trading group and intermittently worked from both workspaces.

37. Even though Project Omega had a dedicated office, certain members of the Omega team continued to have access to the files they had previously worked on in their pre-Omega roles

at ITG. For example, the Liquidity Executive was not even assigned a workspace in the “Omega office,” but rather continued to use his former office and went back and forth. In addition, the Series 24 continued to spend 75 to 80 percent of his time working in his prior role in the customer-facing algorithmic trading group designing and improving ITG’s algorithms and fielding requests and questions sent to ITG by customers regarding the algorithms. At times, the Series 24 remotely accessed electronic files relating to Project Omega from his cubicle in the customer-facing algorithmic trading area. Similarly, while Project Omega was operating, there were times when one of the Omega software developers was also directed to work on projects for ITG’s customer-facing algorithmic trading group.

The Liquidity Executive Directed Project Omega’s Primary Trading Strategies.

38. The Liquidity Executive, himself a former programmer, directed the Omega software developers in connection with the design and implementation of Omega’s two principal trading strategies utilized in live trading – the Facilitation Strategy and the Heatmap Strategy. Both of these trading strategies were based on engaging in high frequency algorithmic buying and selling of NMS stocks at or within the National Best Bid and Offer (the “NBBO”) in order to make small profits or “spreads” between the purchase and sale price within extremely short time frames.⁶ For NMS stocks, the NBBO is the highest bid (or purchase) price and the lowest offer (or sale) price for a security. The difference between the best bid and best offer is referred to as the “bid-ask spread.” The NBBO is based on a compilation of the best bid and offer for NMS stocks on all national securities exchanges.⁷

39. During the relevant time period, POSIT was programmed to execute trades at or within the NBBO, and orders could be routed with one of three “peg types” tied to the NBBO: (a) “passive,” (b) “midpoint” or (c) “aggressive.”

40. In POSIT, during the relevant time period, orders pegged “passive” were priced at the national best bid (if a buy order) or the national best offer (if a sell order). If a subscriber’s order was pegged “aggressive,” then that order would be willing to “cross the spread” to execute at the national best bid (in the case of an “aggressive” sell order) or at the national best offer (in the case of an “aggressive” buy order). Thus, a “passive” buy order would execute within POSIT only against an “aggressive” sell order, and a “passive” sell order would execute only against “aggressive” buy order. The “midpoint” refers to the middle of the NBBO and orders pegged in this manner would seek midpoint executions.

⁶ “NMS security” means any security or class of securities for which transaction reports are collected, processed, and made available pursuant to an effective transaction reporting plan, or an effective national market system plan for reporting transactions in listed options. “NMS stock” means any NMS security other than an option. Regulation NMS, Rule 600(b)(46)-(47), 17 C.F.R. § 242.600(b)(46)-(47).

⁷ ITG subscribes to the Securities Information Processor (the “SIP”), which consolidates and disseminates data from all of the U.S. exchanges, for determining the NBBO for securities traded in POSIT.

The Facilitation Strategy in 2010

The Aleri Feed

41. For the period of approximately April to December 2010, Omega's Facilitation Strategy, which was designed by the Liquidity Executive, involved trading based on a live feed of information (the "Aleri Feed") relating to open orders routed by sell-side subscribers to ITG's trading algorithms for handling.⁸ The Omega team accessed the feed by connecting to a software utility called "Aleri" that was used by ITG's sales and support teams. The feed contained various categories of real-time information regarding "parent" orders routed through virtually all of ITG's algorithms, including: (a) client identifier, (b) symbol, (c) side, (d) quantity of shares, (e) filled shares, (d) target price, (e) the ITG algorithm in which the order was located, and (f) time parameters.⁹

42. No POSIT subscriber other than Project Omega had access to the Aleri Feed.

43. The Facilitation Strategy was designed to detect open orders of sell-side subscribers being handled by ITG via the Aleri Feed and, based on that information, open positions in displayed markets on the same side as the detected orders, and close its positions in POSIT by taking the other side of the detected orders. The Facilitation Strategy was designed to earn the full "bid-ask spread" by opening and then closing positions.

44. The following is an example of how the Facilitation Strategy worked:

Step 1: Using the Aleri Feed, Omega detects an ITG sell-side customer order to buy shares of XYZ stock where the best bid is \$10.00 and the best offer is \$10.02 per share.

Step 2: Omega buys XYZ stock for \$10.00 per share in a displayed market.

Step 3: ITG algorithm routes ITG sell-side customer order to buy XYZ stock to POSIT.

Step 4: Omega sells XYZ stock to ITG sell-side customer in POSIT for \$10.02 per share, resulting in trading revenues of \$0.02 per share for ITG.

45. Based on their experience designing, building and/or writing computer code for ITG's suite of customer algorithms, the Liquidity Executive and the members of the Omega team

⁸ The Aleri Feed included information for orders routed to ITG's algorithms including the Active, Close, Dynamic IS, Flexible Participation, POSIT Marketplace, Raider, TWAP, Volume Participation, VWAP, PWP and Hedge Pro Pairs algorithms.

⁹ A "parent" order is a subscriber's full or complete order that is typically divided into smaller "child" orders when routed algorithmically for execution. For example, if a subscriber submits a "parent" order to sell 1,000 shares of a particular security, that order could be divided into 10 "child" orders to sell 100 shares each. In this case, the Aleri Feed contained information regarding sell-side subscribers' "parent" orders, as well as real-time updates (reflected as "filled shares" in the feed) when executions on "child" orders occurred.

understood how ITG's algorithms worked and the logic they employed to route orders. During the relevant time period, all of ITG's algorithms routed orders to POSIT. In addition, ITG's algorithms typically used ITG's smart order routers, and ITG's smart order routers also routed orders to POSIT.

Selection of Customer Contra Parties

46. For the entire time that ITG's proprietary trading desk was in operation, the Omega team had access to the identities of POSIT subscribers and used this information to identify the full range of potential sell-side subscribers for Omega to trade with in POSIT. In addition, the Omega team used the information to which it had access to analyze the Facilitation Strategy's profits and losses by contra party. Based on these ongoing profit and loss analyses, and without POSIT subscribers' knowledge or consent, the Omega team made decisions about whether to stop trading with a small number of subscribers and to continue trading with others.

47. The Facilitation Strategy was designed to trade only with the sell-side subscribers identified by Omega. In order to effectuate this aspect of the strategy, the Omega team needed assistance from the POSIT development team – a group that also reported up to the Liquidity Executive. At the direction of the Omega team, ITG's POSIT team implemented the required configurations in the dark pool to “enable” sell-side subscribers to trade, or interact, with Omega in POSIT.

48. No subscriber to POSIT, other than Project Omega, was permitted to specifically identify the contra parties with which it wanted to trade. Other subscribers trading in POSIT would not know, or be able to find out, the identities of the parties with which they were trading, because ITG adhered to a policy not to disclose the identities of POSIT subscribers.

Ensuring that Customer Contrats Were Pegged “Aggressive”

49. The Facilitation Strategy that Omega employed was designed to earn the full “bid-ask spread” by trading “passively” when both opening and closing positions. To earn the full “bid-ask spread” by trading with sell-side subscribers in POSIT, those subscribers needed to be configured to trade “aggressively” in POSIT so that they would be willing to “cross the spread” and sell to Omega at the bid or buy from Omega at the offer price.

50. Project Omega took steps to ensure that the sell-side subscribers with which it was trading in POSIT were configured to trade “aggressively” in POSIT. At the Liquidity Executive's direction, one of the Omega software developers coordinated with ITG personnel throughout the firm – including those responsible for administering POSIT, ITG algorithms and ITG smart routers – to confirm that the sell-side subscribers with which Project Omega was enabled to trade in POSIT would trade “aggressively” in POSIT.

51. Despite the strategy's goal of earning the full “bid-ask spread,” there were times when Omega executed trades in POSIT at “midpoint” and did not obtain the “full spread.” In certain instances when this happened, the Liquidity Executive directed his team to investigate by

coordinating with the POSIT development team to determine why the trades executed at midpoint, instead of at the bid or the offer, as the Liquidity Executive thought they should have.

The Heatmap Strategy in 2010

The Heatmap Feed

52. Project Omega's Heatmap Strategy was also designed by the Liquidity Executive. This strategy involved trading on markets other than POSIT based on a live feed (the "Heatmap Feed") of confidential information relating to customer executions in external dark pools (not POSIT).

53. To implement the Heatmap Strategy, the Liquidity Executive and the Omega team needed assistance from ITG's GATE team. GATE is ITG's order and execution management system – its "circulatory system" or "piping" – that, among other things, routes orders to ITG's algorithms and smart routers, as well as to POSIT and external venues (such as exchanges and other dark pools), and also sends internal execution reports when trades are executed.

54. To obtain the Heatmap Feed, employees working on Omega – with the assistance of employees at ITG working on the GATE system – leveraged an existing utility at ITG used by ITG's smart order routers that aggregated customer executions in external dark pools and generated "probability scores" relating to possible liquidity in those venues.

55. The Heatmap Feed that Omega received did not contain "probability scores" but rather various categories of real-time information on customer executions including: (a) destination (which dark pool), (b) symbol, (c) side, (d) report type (filled, partial fill, etc.), (e) quantity, (f) fill price, (g) time in force, (h) report time, (i) peg instruction (midpoint, bid, ask), (j) limit price, and (k) sequence number (linking parent and the child orders). Project Omega used the Heatmap Feed not merely for routing but also for determining what securities to trade.

56. Utilizing the Heatmap Feed, Omega's Heatmap algorithm would open positions in specific securities "passively" in displayed markets at the bid or the offer and then close them at "midpoint" or better in the external dark pools selected by the feed. The goal of the strategy was to earn a "half spread" or better when opening and then closing positions.

57. The following is an example of how the Heatmap Strategy worked:

Step 1: Using the Heatmap Feed, Omega detects a midpoint execution for an ITG customer on an order to sell XYZ stock in an external dark pool ("ABC Dark Pool") where the best bid is \$10.00 and the best offer is \$10.02 per share. Omega infers that more midpoint liquidity could exist in ABC Dark Pool.

Step 2: Omega buys XYZ stock for \$10.00 per share in a displayed market.

Step 3: Omega sells XYZ stock at the midpoint for \$10.01 per share in ABC Dark Pool, resulting in revenues of \$0.01 per share for ITG.

58. No market participant other than Project Omega had access to the information provided in the Heatmap Feed.

59. From approximately April to December 2010, Omega's Heatmap Feed included live trade execution information for all of ITG's customers, including both sell-side and buy-side customers.

In December 2010, ITG's Senior Management and Compliance Department Learned that Project Omega was Improperly Accessing Subscriber Order Information.

60. In the late fall of 2010, ITG's CEO directed two other ITG executives to speak with the Liquidity Executive to gather information concerning the operation of Project Omega for the CEO's information and to assist the CEO in making a presentation to Group's Board of Directors in February 2011.

61. In early to mid-December 2010, ITG's compliance department and senior management learned – based on the Liquidity Executive's admissions – that Project Omega was trading based on a live feed of information regarding sell-side customers' orders that had been sent to ITG's algorithms. As a result, ITG immediately suspended Project Omega's trading. Shortly thereafter, the compliance department and ITG's senior management learned additional detail regarding the Facilitation Strategy and Omega's use of the Aleri Feed, as well as certain information about Project Omega's use of the customer execution feed in connection with its Heatmap Strategy.

62. The Liquidity Executive had not previously disclosed to ITG's compliance department or senior management that Project Omega's strategies involved accessing and trading based on the Aleri Feed and the Heatmap Feed. Instead, prior to December 2010, the Liquidity Executive had misrepresented to ITG's compliance department the manner in which Project Omega's trading strategies were operating.

63. Between approximately December 9 and 20, 2010, while Project Omega's trading activities were suspended, ITG's compliance department conducted a review of Omega's activities in order to make a report to ITG's senior management.

64. On approximately December 20, 2010, a meeting among ITG's senior management and compliance department was held to address Project Omega. During this meeting, the CEO reprimanded the Liquidity Executive for violating ITG policy and placing the firm at risk. Thereafter, Project Omega made certain changes to its trading strategies and was permitted to restart live trading.

Project Omega After it Resumed Live Trading

65. On or around December 21, 2010, Project Omega restarted a modified Facilitation Strategy that did not involve access to the Aleri Feed. In addition, Project Omega restarted a modified Heatmap Strategy on or around January 24, 2011, without direct access to the Heatmap Feed.

66. When Project Omega resumed trading, no changes were made to its organizational structure. As before the temporary suspension, the Liquidity Executive continued to manage Project Omega and direct its trading strategies while also continuing his overall product management responsibilities for ITG's trading algorithms, smart order routers and POSIT, which included access to confidential customer order and trade information. The other members of the team also continued in the same roles they had before the temporary suspension.

67. Despite the removal of the improper direct feeds, in connection with the Facilitation Strategy, Project Omega continued to have improper access to information identifying POSIT subscribers. In addition, the Omega team continued to coordinate with ITG's POSIT development team to identify the sell-side subscribers for Omega to trade with in POSIT and to ensure that such subscribers were configured to trade "aggressively" in POSIT.

68. After resuming trading in late 2010, Project Omega continued to engage in live trading until on or around July 11, 2011, when ITG terminated the Liquidity Executive as an employee and discontinued Project Omega's operations.

69. During and after the temporary suspension of Project Omega's trading activities in December 2010, ITG continued to keep Project Omega and its trading activities confidential and made no disclosure of it publicly, to subscribers, or to the Commission via an amendment to the POSIT Form ATS.

Project Omega's Revenues and Total Shares Traded

70. During the time period that Project Omega was in operation, from approximately April 2010 to July 2011, Project Omega traded a total of approximately 1.3 billion shares, including approximately 262 million shares traded with unsuspecting subscribers in POSIT in connection with the Facilitation Strategy.

71. ITG's gross revenues from Project Omega's trading activities totaled approximately \$2,081,304.

Violations

ITG Failed to Disclose Project Omega or its Proprietary Trading Activities .

72. ITG failed to make any disclosure regarding Project Omega or its proprietary trading activities either publicly or to any of its customers or prospective customers.

73. During the time period when Project Omega was in operation, ITG continued to market and promote itself publicly, as well as to customers and prospective customers, as an “agency-only” broker that did not engage in proprietary trading. ITG also promoted its products and services as “reducing market impact” and protecting against “information leakage” and “gaming” of customer orders.

ITG Failed to Restrict Access to POSIT Subscriber Information.

74. Rule 301(b)(10) of Regulation ATS provides that an ATS “shall establish adequate safeguards and procedures to protect subscribers’ confidential trading information,” including, “[l]imiting access to the confidential trading information of subscribers to those employees of the alternative trading system who are operating the system or responsible for its compliance with these or any applicable rules.”

75. From April 2010 to July 2011, ITG failed to limit POSIT access to individuals who were POSIT employees operating the ATS or responsible for its compliance with applicable rules and, instead, provided POSIT access to a much wider range of individuals mostly in the areas of information technology, software development and technical support.

76. From April 2010 to July 2011, ITG permitted employees working on Project Omega, including the Liquidity Executive, to access confidential trading information of POSIT subscribers. From approximately April 2010 through December 2010, Project Omega accessed a live feed of information regarding sell-side subscriber orders submitted to ITG algorithms and bound for POSIT. Project Omega also had access to information regarding the identities of POSIT subscribers, identified sell-side subscribers for Omega to trade with, and had access to information regarding whether subscribers’ orders were pegged “aggressive” in POSIT. During the relevant period, ITG and POSIT did not have adequate oversight procedures to ensure that the safeguards and procedures required by Rule 301(b)(10)(i) were followed.

ITG Failed to Amend its Form ATS Filings.

77. Rule 301(b)(2) of Regulation ATS requires that an ATS “shall file an amendment on Form ATS at least 20 calendar days prior to implementing a material change to the operation of the alternative trading system.”

78. ITG failed to disclose Project Omega or its proprietary trading activities in any of its Form ATS filings, even though the Omega’s trading activities in POSIT constituted a material change to the ATS’s operations. In connection with the Facilitation Strategy, Project Omega had access to and traded based on confidential information regarding sell-side subscribers’ identities and order “peg types” and, through December 2010, sell-side subscribers’ order flow. As a result, with respect to Omega’s activities, POSIT was not a “dark” or anonymous crossing venue.

Statutory and Rule Violations

79. As a result of the conduct described above, ITG Inc. and AlterNet willfully¹⁰ violated:

- a. Sections 17(a)(2) of the Securities Act, which prohibits, directly or indirectly, in the offer or sale of securities, obtaining money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and
- b. Section 17(a)(3) of the Securities Act, which prohibits, directly or indirectly, in the offer or sale of securities, engaging in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.

80. As a result of the conduct described above, ITG Inc. willfully violated:

- a. Rule 301(b)(2) of Regulation ATS, which requires an ATS to file an initial operation report on Form ATS at least 20 days prior to commencing operation as an alternative trading system and to file an amendment on Form ATS at least 20 days prior to implementing a material change to the operation of the ATS, within 30 days after the end of a quarter when information contained in an initial operation report filed on Form ATS becomes inaccurate (if it has not been previously reported as an amendment on Form ATS), and promptly upon discovering that an initial operation report filed on Form ATS or an amendment on Form ATS was inaccurate when filed; and
- b. Rule 301(b)(10) of Regulation ATS, which requires an ATS to establish adequate safeguards and procedures to protect subscribers' confidential trading information and to adopt and implement adequate oversight procedures to ensure that the safeguards and procedures for protecting subscribers' confidential trading information are followed.

¹⁰ A willful violation of the securities laws means merely “that the person charged with the duty knows what he is doing.” *Wonsover v. SEC*, 205 F.3d 408, 414 (D.C. Cir. 2000) (quoting *Hughes v. SEC*, 174 F.2d 969, 977 (D.C. Cir. 1949)). There is no requirement that the actor “also be aware that he is violating one of the Rules or Acts.” *Id.* (quoting *Gearhart & Otis, Inc. v. SEC*, 348 F.2d 798, 803 (D.C. Cir. 1965)).

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in the Offers of ITG Inc. and AlterNet.

Accordingly, pursuant to Section 8A of the Securities Act and Sections 15(b) and 21C of the Exchange Act, it is hereby ORDERED that:

A. ITG Inc. and AlterNet cease and desist from committing or causing any violations and any future violations of Sections 17(a)(2) and 17(a)(3) of the Securities Act.

B. ITG Inc. cease and desist from committing or causing any violations and any future violations of Rules 301(b)(2) and 301(b)(10) of Regulation ATS.

C. ITG Inc. and AlterNet are censured.

D. ITG Inc. and AlterNet shall, within ten days of the entry of this Order, jointly and severally, pay disgorgement of \$2,081,304, prejudgment interest of \$256,532, and a civil money penalty in the amount of \$18,000,000, to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, in accordance with Exchange Act Section 21F(g)(3). If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. 3717 and/or SEC Rule of Practice 600. Payment must be made in one of the following ways:

- 1) ITG Inc. and AlterNet may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- 2) ITG Inc. and AlterNet may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
- 3) ITG Inc. and AlterNet may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying ITG Inc. and AlterNet as Respondents in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Joseph G.

Sansone, Co-Deputy Chief, Market Abuse Unit, Division of Enforcement, Securities and Exchange Commission, New York Regional Office, Brookfield Place, 200 Vesey Street, Suite 400, New York, NY 10281-1022.

By the Commission.

Brent J. Fields
Secretary