

EXHIBIT 5

Deleted text is [bracketed]. New text is underlined.

NASDAQ OMX PHLX Rules

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Rule 722. Miscellaneous Securities Margin Accounts

This Rule shall apply to all member organizations in respect of margin accounts for Miscellaneous Securities as defined in this Rule.

(a) Definitions . For the purpose of this Rule, the following terms shall have the meanings specified below:

(1) [The term "cash index participation" (CIP) means a security based on the spot value of an index of stocks, of indeterminate duration, and paying its purchasers a proportionate share of dividends declared on the component stocks of the CIP.]
Reserved.

(2) ["Cash index participations" and] "[w]World currency options" are also known as "Miscellaneous Securities" for the purposes of this Rule.

(b) No change.

(c) Other Provisions.

(1) No change.

(2) Reserved. [*Cash Index Participations (CIPs)*]. The margin which must be maintained in margin accounts of customers, whether members, partners of members, member organizations or stockholders therein or non-members, shall be as follows:

1. 25% of the market value of all "long" CIP positions in the account plus;
2. 30% of the market value, in cash, of each "short" CIP position in the account;
3. No margin need be required in respect of a CIP carried "short" in a customer's account when the customer has executed and delivered to the member organization carrying the account an escrow receipt meeting the requirements of Rule 1909 of The Options Clearing Corporation.]

(3) No change.

(d) No change.

Pursuant to this Rule 722, the Exchange may also conduct reviews of currency margins levels at any time that market conditions warrant.

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[Rules Applicable to Trading of Cash Index Participations (Rules 1000B—1012B)]

Rule 1000B. Reserved. [Applicability and Definitions]

(a) *Applicability.* The Rules in this Section are applicable only to cash index participations. In addition, except to the extent that specific Rules in this Section govern, or unless the context otherwise requires, the provisions of the following Options Rules applicable to stock options and options on indices shall be applicable to the trading on the Exchange of cash index participations: PHLX Options Rules 1000(b), 1004, 1005, 1006, 1008, 1013, 1014, 1015, 1017, 1018, 1019, 1020, 1022, 1024, 1025, 1026, 1027, 1028, 1029, 1032, 1035, 1037, 1038, 1039, 1040, 1041, 1045, 1048, 1049, 1050, 1051, 1052, 1053, 1054, 1055, 1056, 1060, 1061, 1062, 1063, 1064, 1065, 1066, 1070, 1047A.

Compliance with Rules 1001, 1002 and 1003 shall be determined as set forth in Rules 1005B, 1006B and 1007B.

(b) *Definitions.* The following terms as used in the Rules shall, unless the context otherwise indicate, have the meanings herein specified.

(1) *Cash Index Participation (CIP)*—The term "Cash Index Participation (CIP)" means a security based on the spot value of an index of stocks, of indeterminate duration, and paying its purchasers a proportionate share of dividends declared on the component stocks of the CIP.

(2) *Reporting Authority*—The term "reporting authority" in respect of a particular index means the institution or reporting service designated by the Exchange as the official source for calculating and determining the current index value or the closing index value and the proportionate share of dividends payable to CIP holders.

Rule 1001B. Designation of the Index

The stocks that are the basis for the calculation of the index shall be selected by the Exchange and may be revised from time to time in the Exchange's discretion as necessary or appropriate to maintain the quality and character of the index.

Rule 1002B. CIP Index Calculation

(a) The current index value in respect of a particular CIP index shall be derived from the reported prices of the underlying securities that are the basis of the index, as reported by the reporting authority for the index.

(b) The closing index value in respect of a particular CIP index shall be derived from the reported prices of the component stocks of the index at a time or times specified by the Exchange for determining the payment to which a CIP buyer is entitled to upon exercise of the CIP cash-out privilege.

Rule 1003B. Dissemination of Information

(a) The Exchange shall assure that the current index value is disseminated from time-to-time on days on which transactions in CIPs are made on the Exchange and that the closing index value is disseminated as promptly as it is available at the quarterly cash-out time.

(b) The Exchange shall maintain, in files available to the public, information identifying the stocks whose prices are the basis for the calculation of the index and the method used to determine the current index value.

Rule 1004B. Cash-Out Privilege

The purchaser of a CIP may exercise the CIP cash-out privilege at any time after establishing a CIP position. Exercise of the CIP cash-out privilege entitles the holder of a long CIP position to obtain the CIP closing index value as specified in Rule 1008B relating to exercise of the cash-out privilege.

Rule 1005B. Position Limits

In determining compliance with Rule 1001, CIPs shall be subject to a position limit of 15 million CIPs with respect to any particular underlying index.

Rule 1006B. Exercise Limits

In determining compliance with Rule 1002, exercise limits per CIPs shall be equivalent to the position limits set forth in Rule 1005B.

Rule 1007B. Reporting of CIP Positions

In determining compliance with Rule 1003, each member and member organization shall file with the Exchange a report with respect to each account in which the member or member organization has an interest, each account of a partner, officer, director or employee of the member organization, and each customer account, which has established an aggregate position of 200,000 CIPs (whether long or short) covering the same underlying index.

Rule 1008B. Exercise of Cash-Out Privilege

(a) Exercise of the cash-out privilege shall entitle the holder of the CIP to receive the CIP index value less one half of one percent of that value as calculated at the close of trading on the business day following the date of the exercise of the cash-out privilege. For exercises occurring on the business day preceding the third Friday of March, June, September and December (or when the third Friday is not a trading day, the business day preceding the third Thursday) ("Quarterly Expiration Day"), the exercise of the cash-out privilege shall entitle the holder of the CIP to receive the closing index value of the CIP, based on the opening prices of each of the component stocks of the index on the Quarterly Expiration Day. If one or more of the underlying securities that are the basis of the index do not open for trading on the Quarterly Expiration Day,

the closing index value shall be calculated based on the last reported price of such securities prior to that day.

(b) Except as provided in paragraph (c) below, notice of exercise of the CIP cash-out privilege must be provided by a purchaser of a CIP in accordance with the rules and procedures of The Options Clearing Corporation. An exercise notice may be tendered to The Options Clearing Corporation only by the clearing member in whose account with The Options Clearing Corporation the CIP is carried. Members and member organizations, to the extent that they do not conflict with the rules and procedures of the Exchange and The Options Clearing Corporation, shall establish fixed procedures as to the latest hour at which they will accept exercise notices from their customers.

(c) Solely with respect to exercising the CIP cash-out privilege on the business day preceding the Quarterly Expiration Day, clearing members are required to follow the procedures of The Options Clearing Corporation for tendering exercise notices, and member organizations also are required to comply with the following procedures:

- (i) A memorandum to exercise the cash-out privilege with respect to any CIP issued or to be issued in a customer, firm, or market maker account at The Options Clearing Corporation must be received and/or prepared by the member organization no later than 4:15 p.m. Eastern Time ("exercise cut-off time") and must be time-stamped at the time it is received and/or prepared. Member organizations must accept exercise instructions until 4:15 p.m. Eastern Time on this day.
- (ii) Any member or member organization that intends to submit an exercise notice for 25 or more CIP round lots on the same underlying Exchange CIP index on behalf of an individual customer, specialist, market maker, or firm account must deliver an "exercise advice" on a form prescribed by the Exchange, no later than 4:15 p.m. Eastern Time. For purposes of this rule, exercises of all accounts controlled by the same individual must be aggregated.
- (iii) Notwithstanding subparagraph (i) above, member organizations may receive exercise instructions after the exercise cut-off time but prior to any exercise notice receipt cut-off time of The Options Clearing Corporation (1) in order to remedy mistakes made in good faith, (2) to take appropriate action as the result of a failure to reconcile unmatched Exchange CIP transactions or (3) where exceptional circumstances relating to a customer's ability to communicate exercise instructions to the member organization (or the member organization's ability to receive exercise instructions) prior to such time warrant such action.

••• *Commentary:* -----

.01 All memoranda of exercise instructions prepared pursuant to this rule are subject to the requirements of SEC rule 17a-3(a)(6) and 17a-4(b).

.02 In the event a member organization receives an exercise instruction or tenders an exercise notice pursuant to an exception set forth in subparagraph (iii) of paragraph (c) of this rule, the member organization shall maintain a memorandum setting forth the circumstances giving rise to such exception and shall promptly file a copy of the memorandum with the Exchange.

Rule 1009B. Preferred Allocation of CIP Exercise Notices

(a) A holder of a short CIP position (seller of a CIP) desiring to receive priority consideration in being assigned an exercise notice of a holder of a long CIP position (purchaser of a CIP) may on a daily basis provide notice of such intent ("Notice") on or before a time specified and made public by the Exchange and which is in accordance with the Rules of The Options Clearing Corporation ("OCC"). Specific "acceptance of Notice" cut-off times will also be delineated for Exchange member organizations. A Notice may be tendered to The OCC in a form prescribed by the Exchange which is in accordance with the Rules of The OCC only by the clearing member in whose account with The OCC the CIP short position is carried. Members and member organizations shall establish fixed procedures, to the extent that they do not conflict with the rules and policies of the Exchange and The OCC, as to the latest hour at which they will accept Notices from their customers.

(b) A seller of a CIP who makes an effective tender of a Notice will receive priority consideration from The OCC in being assigned an exercise notice of a purchaser of a CIP. In the event that there are greater short CIP positions for which Notices are received than long CIP positions for which exercise notices are received, The OCC will allocate exercise notices on a random basis among only short CIP positions for which Notices have been received. In this regard, all Notices, regardless of the time of day that they are received, so long as they are received by The OCC prior to the acceptance of Notice cut-off time, will be given equal priority in being considered for assignment of exercise notices. A Notice is effective for only the business day on which it is tendered and accepted. Notices may be tendered on any day that The OCC accepts notices of exercise of the CIP cash-out privilege from CIP purchasers.

(c) Each member organization shall establish fixed procedures for the allocation of exercise notices assigned in respect of a short position in CIPs in such member organization's customers' accounts. Such allocation procedures shall assure that customers who effectively tender Notices shall receive priority consideration and assignment of exercise notices over other customers holding CIP short positions with the member organization. In allocating exercise notices among customers of the same status holding short CIP positions, *i.e.*, those who tendered effective Notices and those who did not, such allocations shall be made on a "first-in, first-out" or automated random selection basis that has been approved by the Exchange or on a manual random selection basis that has been specified by the Exchange. Each member organization shall inform its customers in writing of the method it uses to allocate exercise notices to its customers' accounts, explaining its manner of operation and the consequences of that system. Unless otherwise specified by the member organization, the allocation procedures established by a

member organization for stock options will be deemed to apply to the allocation of exercise notices for CIPs.

(d) Each member organization shall report its proposed method of allocation to the Exchange and obtain the Exchange's prior approval thereof, and no member organization shall change its method of allocation unless the change has been reported to and approved by the Exchange.

(e) Each member organization shall preserve for a three-year period sufficient work papers and other documentary materials relating to the allocation of exercise assignment notices to establish the manner in which allocation of such exercise notices is in fact being accomplished.

Rule 1010B. Bids and Offers

All bids and offers made on the trading floor for CIPs shall be deemed to be for one unit of trading unless a specified greater number of CIPs is expressed in the bid or offer. A bid or offer for more than a unit of trading of CIPs shall be deemed to be for the amount thereof or a smaller number of units of trading of CIPs. The unit of trading in CIPs shall be 100 CIPs unless otherwise designated by the Exchange.

Rule 1011B. Limitation of Exchange Liability

Neither the Exchange, the Reporting Authority nor any Agent of the Exchange shall have any liability for damages, claims, losses or expenses caused by any errors, omissions, or delays in calculating or disseminating the current index value or the closing index value and tracking dividend payout dates or computing proportionate dividend pay outs resulting from an act, condition or cause beyond the reasonable control of the Exchange or the Reporting Authority, including, but not limited to, an act of God; fire; flood; extraordinary weather conditions; war; insurrection; riot; strike; accident; action of government; communications or power failure; equipment or software malfunction; any error; omission or delay in the reports of transactions in one or more underlying securities; or any error; omission or delay in the reports of the current index value or the closing index value by the Exchange or the Reporting Authority.

Rule 1012B. Reserved Authority

The Exchange may, in the event of extreme CIP trading inactivity or under exceptional circumstances, require the purchasers and sellers to settle their CIP contracts at the closing index value determined by a designated cash-out time upon notice of at least one year.]