

**EXHIBIT 5**

New text is underlined; deleted text is in brackets.

**NASDAQ PHLX Rules****Options Rules**

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**Rule 1027. Discretionary Accounts**

(a) Authorization and Approval Required. The authorization of all discretionary options accounts and the approval of all discretionary options transactions shall be handled as follows:

(i) Stock, Index or Exchange-Traded Fund Share Options—No member or member organization and no partner or employee of a member organization shall exercise any discretionary power with respect to trading in stock, index or Exchange-Traded Fund Share options contracts in a customer's account unless such customer has given prior written authorization and the account has been accepted in writing by a Registered Options Principal. Each firm shall designate specific Registered Options Principals [qualified individuals ]pursuant to Rule 1025 to review discretionary accounts. A Registered Options Principal [qualified person ]specifically delegated such responsibilities under Rule 1025 (who is an individual other than the Registered Options Principal who accepted the account) shall review the acceptance of each discretionary account to determine that the Registered Options Principal accepting the account had a reasonable basis for believing that the customer was able to understand and bear the risks of the strategies or transactions proposed, and he shall maintain a record of the basis for his determination. [Every discretionary order shall be identified as discretionary at the time of entry. Discretionary accounts shall receive frequent review by a Registered Options Principal qualified person specifically delegated such responsibilities under Rule 1025, who is not exercising the discretionary authority.]

(ii) Foreign Currency Options—No member or member organization and no partner or employee of a member organization shall exercise any discretionary power with respect to trading in foreign currency options contracts in a customer's account unless such customer has given prior written authorization with respect to such trading and the account has been accepted in writing by a designated Foreign Currency Options Principal, who shall maintain a record of the basis for his determination that such customer was able to understand and bear the risks of the strategies or transactions proposed. Such designated Foreign Currency Options Principal must approve and initial each discretionary foreign currency options order on the day entered unless such order has already been approved and initialled by a Registered Options Principal, provided that in the case of approvals by Registered Options Principals who are not designated Foreign Currency Options Principals, such approvals shall be confirmed within a reasonable time by a designated Foreign Currency Options Principal.

(iii) General —Every discretionary order shall be identified as discretionary on the order at the time of entry. Discretionary accounts shall receive frequent appropriate supervisory review by the [Compliance] Registered Options Principal specifically delegated such responsibilities under Rule 1025, who is not exercising the discretionary authority. [The provisions of this paragraph (a) shall not apply to discretion as to the price at which or the time when an order given by a customer for the purchase or sale of a definite number of option contracts in a specified security or foreign currency shall be executed.]

(iv) No change.

(b) No change.

(c) Prohibited Transactions—No member or member organization and no partner, officer or employee of a member organization [having discretionary power over a customer's account shall, in the exercise of such discretion, execute or cause to be executed therein any purchases or sales of ]shall effect with or for any customer's account in respect to which such member or member organization or partner, officer or employee of a member organization is vested with any discretionary power any transactions of purchase or sale of option contracts which are excessive in size or frequency in view of the financial resources and character of [in] such account.

(d) Record of Transactions—A record shall be made of every option transaction[ in option contracts] for an account in respect to which a member or member organization or a partner, officer or employee of a member organization [has exercised ] is vested with any discretionary authority, [clearly reflecting such fact and indicating the name of the customer, the designation and number of the option contracts, the premium and the date and time when such transaction was effected.]such record to include the name of the customer, the designation, number of contracts and premium of the option contracts, the date and time when such transaction took place and clearly reflecting the fact that discretionary authority was exercised.

(e) Discretion as to Time or Price Excepted—This Rule shall not apply to discretion as to the price at which or the time when an order given by a customer for the purchase or sale of a definite number of option contracts in a specified security or foreign currency shall be executed, except that the authority to exercise time and price discretion will be considered to be in effect only until the end of the business day on which the customer granted such discretion, absent a specific, written contrary indication signed and dated by the customer. This limitation shall not apply to time and price discretion exercised in an institutional account, as defined below, pursuant to valid Good-Till-Cancelled instructions issued on a "not held" basis. Any exercise of time and price discretion must be reflected on the order ticket. As used in this paragraph [(d)](e) the term "institutional account" shall mean the account of: (i) a bank, savings and loan association, insurance company, or registered investment company; (ii) an investment adviser registered either with the Securities and Exchange Commission under Section 203 of the Investment

Advisers Act of 1940 or with a state securities commission (or any agency or office performing like functions); or (iii) any other entity (whether a natural person, corporation, partnership, trust or otherwise) with total assets of at least \$50 million.

••• **Commentary** ----- No change.

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