

EXHIBIT 5

Below is the text of the proposed rule change. Proposed new language is underlined; proposed deletions are in brackets.

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2000. DUTIES AND CONFLICTS

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2300. SPECIAL PRODUCTS

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2360. Options

(a) Definitions

The following terms shall, unless the context otherwise requires, have the stated meanings:

(1) through (10) No Change.

(11) Delta Neutral — The term “delta neutral” describes an equity options position that has been fully hedged, in accordance with a Permitted Pricing Model as defined in paragraph [(b)(3)(A)(vii)b.] (b)(3)(A)(ii)b. with a portfolio of instruments including or relating to the same underlying security to offset the risk that the value of the equity options position will change with incremental changes in the price of the security underlying the options position.

(12) through (39) No Change.

(b) Requirements

(1) through (2) No Change.

(3) Position Limits

(A) Stock Options —

(i) Standardized Equity Options

Except in highly unusual circumstances, and with the prior written approval of FINRA pursuant to the Rule 9600 Series for good cause shown in each instance, no member shall effect for any account in which such member has an interest, or for the account of any partner, officer, director or employee thereof, or for the account of any customer, non-member broker, or non-member dealer, an opening transaction [through the over-the-counter market or] on any exchange in a stock option contract of any class of stock options if the member has reason to believe that as a result of such transaction the member or partner, officer, director or employee thereof, or customer, non-member broker, or non-member dealer, would, acting alone or in concert with others, directly or indirectly, hold or control or be obligated in respect of an aggregate standardized equity options position in excess of[:]
the highest position limit established by an exchange on which the option trades, or

[(i) 25,000 option contracts of the put class and the call class on the same side of the market covering the same underlying security, combining for purposes of this position limit long positions in put options with short positions in call options, and short positions in put options with long positions in call options; or]

[(ii) 50,000 option contracts of the put class and the call class on the same side of the market covering the same underlying security, provided that the 50,000 contract position limit shall only be available for option contracts on securities that underlie exchange-traded options qualifying under applicable rules for a position limit of 50,000 option contracts; or]

[(iii) 75,000 option contracts of the put class and the call class on the same side of the market covering the same underlying security provided that the 75,000 contract position limit shall only be available for option contracts on securities that underlie exchange-traded options qualifying under applicable rules for a position limit of 75,000 option contracts; or]

[(iv) 200,000 option contracts of the put and the call class on the same side of the market covering the same underlying security, provided that the 200,000 contract position limit shall only be available for option contracts on securities that underlie exchange-traded options qualifying under applicable rules for a position limit of 200,000 option contracts; or]

[(v) 250,000 option contracts of the put and the call class on the same side of the market covering the same underlying security, provided that the 250,000 contract position limit shall only be available for option contracts on securities that underlie

exchange-traded options qualifying under applicable rules for a position limit of 250,000 option contracts; or]

[(vi)] such other number of stock option contracts as may be fixed from time to time by FINRA as the position limit for one or more classes or series of options provided that reasonable notice shall be given of each new position limit fixed by FINRA.

[(vii)] (ii) Equity Option Hedge Exemptions

a. The following qualified hedge strategies and positions described in subparagraphs 1. through 6. below shall be exempt from the established position limits under this [r]Rule for standardized options. Hedge strategies and positions described in subparagraphs 7. and 8. below in which one of the option components consists of a conventional option, shall be subject to a position limit of five times the established position limits contained in [sub]paragraphs [(i)] (b)(3)(A)(iii)a.1. through 6. below [(vi) above]. Hedge strategies and positions in conventional options as described in subparagraphs 1. through 6. below shall be subject to a position limit of five times the established position limits contained in [sub]paragraphs [(i)] (b)(3)(A)(iii)a.1. through 6. below [(vi) above]. Options positions limits established under this

subparagraph shall be separate from limits established in other provisions of this [r]Rule.

1. through 8. No Change.

b. Delta Hedging Exemption For Members and Non-Member Affiliates

An equity options position of a member or non-member affiliate in standardized and/or conventional equity options that is delta neutral under a Permitted Pricing Model shall be exempt from position limits under this Rule. Any equity options position of such member or non-member affiliate that is not delta neutral shall be subject to position limits, subject to the availability of other options position limit exemptions. The number of options contracts attributable to a position that is not delta neutral shall be the options contract equivalent of the net delta.

1. through 3. No Change.

4. Reporting

A. Each member must report in accordance with paragraph (b)(5), all equity option positions (including those that are delta neutral) of 200 or more contracts (whether long or short) on the same side of

the market covering the same underlying security that are effected by the member.

B. In addition, each member on its own behalf or on behalf of a designated aggregation unit pursuant to paragraph [(b)(3)(A)(vii)b.2.] (b)(3)(A)(ii)b.2. shall report in a manner specified by FINRA the options contract equivalent of the net delta of each position that represents 200 or more contracts (whether long or short) on the same side of the market covering the same underlying security that are effected by the member.

[(viii)] (iii) Conventional Equity Options

a. For purposes of this paragraph (b), standardized equity option contracts of the put class and call class on the same side of the market overlying the same security shall not be aggregated with conventional equity option contracts or FLEX Equity Option contracts overlying the same security on the same side of the market. Conventional equity option contracts of the put class and call class on the same side of the market overlying the same security shall be subject to a position limit [equal to the greater] of:

[1. the basic limit of 25,000 contracts, or]

[2. any standardized equity options position

limit as set forth in paragraphs (b)(3)(A)(ii) through (v) for which the underlying security qualifies or would be able to qualify.]

1. 25,000 option contracts, combining for purposes of this position limit long positions in put options with short positions in call options, and short positions in put options with long positions in call options; or

2. 50,000 option contracts for option contracts on securities that underlie exchange-traded options qualifying under applicable rules for a position limit of 50,000 option contracts; or

3. 75,000 option contracts for option contracts on securities that underlie exchange-traded options qualifying under applicable rules for a position limit of 75,000 option contracts; or

4. 200,000 option contracts for option contracts on securities that underlie exchange-traded options qualifying under applicable rules for a position limit of 200,000 option contracts; or

5. 250,000 option contracts for option contracts on securities that underlie exchange-traded options qualifying under applicable rules for a position limit of 250,000 option contracts; or

6. for selected conventional options on exchange-traded funds (“ETF”), the position limits are listed in the chart below:

<u>Security Underlying Option</u>	<u>Position Limit</u>
<u>The DIAMONDS Trust (DIA)</u>	<u>300,000 contracts</u>
<u>The Standard and Poor’s Depositary Receipts Trust (SPY)</u>	<u>900,000 contracts</u>
<u>The iShares Russell 2000 Index Fund (IWM)</u>	<u>500,000 contracts</u>
<u>The PowerShares QQQ Trust (QQQQ)</u>	<u>900,000 contracts</u>
<u>The iShares MSCI Emerging Markets Index Fund (EEM)</u>	<u>500,000 contracts</u>

b. No Change.

(B) through (D) No Change.

(4) through (24) No Change.

(c) No Change.

• • • **Supplementary Material:** -----

.01 Position Limit Examples

The following examples illustrate the operation of position limits established by Rule 2360(b)(3) (all examples assume a position limit of 25,000 contracts and that the options are standardized options):

(a) through (c) No Change.

(d) Customer D, who is short 2,000,000 shares of XYZ, may be long up to 45,000 XYZ calls, since the “hedge” exemption contained in paragraph [(b)(3)(A)(vii)] (b)(3)(A)(ii)a.1. permits Customer D to establish an options position up to 25,000 contracts in size. In this instance, 25,000 of the 45,000 contracts are permissible under the basic 25,000 position limit [contained in paragraph (b)(3)(A)(i)] and the remaining 20,000 contracts are permissible because they are hedged by the 2,000,000 short stock position.

.02 In connection with the delta hedging exemptions for members and non-member affiliates in Rule [2360(b)(3)(A)(vii)b.] 2360(b)(3)(A)(ii)b., FINRA will require broker-dealer(s) to satisfy the following conditions in order for FINRA to deem no control relationship, in accordance with Rule 2360(a)(6), to exist between affiliates and between separate and distinct trading units within the same entity:

- operate the trading unit(s) requesting non-aggregation treatment independently of other trading units controlled by the broker-dealer, and disclose to FINRA the trading objective of the trading unit(s) requesting non-aggregation treatment;
- create internal firewalls and information barriers to segregate the trading unit(s) receiving non-aggregation treatment from other trading units controlled by the broker-dealer to prevent the flow of information (e.g., trades, positions, trading strategies);

- conduct all trading activity of the trading unit(s) requesting non-aggregation in a segregated account, which shall be reported to FINRA as such;
- maintain regulatory compliance oversight and internal controls and procedures addressing the non-aggregation arrangement;
- retain written records of information concerning the non-aggregated account, including, but not limited to, trading personnel, names of personnel making trading decisions, unusual trading activities, disciplinary action resulting from breach of the broker-dealer's systems firewalls and information-sharing policies, and the transfer of securities between the broker-dealer's non-aggregated accounts, which information shall be promptly made available to FINRA upon its request;
- promptly provide to FINRA a written report at such time there is any material change with respect to the non-aggregated account, which FINRA will use as a basis to reexamine its determination of non-aggregation; and
- provide a written acknowledgement that FINRA reserves the right to (1) impose additional restrictions and conditions with respect to the granting and removal of non-aggregation, and (2) freeze any position above the applicable position limit if FINRA determines that aggregation has become necessary due to changed circumstances.

Generally, the presumption of control in these types of arrangements will become easier to rebut as the physical separation between the trading units increases. For example, FINRA will require that trading units located on the same floor of a building be

physically isolated from each other to ensure that no inappropriate communication will take place between individuals staffed in the applicable trading units.

.03 Position Limits for Exchange-Traded Funds

[(a) In accordance with Rule 2360(b)(3)(A)(vi), FINRA may fix the position limit for one or more classes or series of options. The position limits applicable to option contracts on the securities listed in the chart below are as follows:]

[Security Underlying Option]	[Position Limit]
[The DIAMONDS Trust (DIA)]	[300,000 contracts]
[The Standard and Poor's Depository Receipts Trust (SPY)]	[900,000 contracts]
[The iShares Russell 2000 Index Fund (IWM)]	[500,000 contracts]
[The PowerShares QQQ Trust (QQQQ)]	[900,000 contracts]

[(b) The position limit for a conventional option contract on an exchange-traded fund ("ETF") that also underlies a standardized option shall be the same as the position limit for the applicable standardized option.]

[(c)] The position limit for a conventional option contract on an ETF that is not listed in Rule 2360(b)(3)(A)(iii)a.6. and does not also underlie a standardized option shall be the basic limit of 25,000 contracts. To qualify for a position limit of more than 25,000 contracts, a member must apply for an increased position limit in accordance with Rule [2360(b)(3)(A)(viii)b.] 2360(b)(3)(A)(iii)b.

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