

EXHIBIT 5

The text of the proposed rule change is below. Proposed new language is underlined; proposed deletions are bracketed.

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11890. Clearly Erroneous Transactions

The provisions of paragraphs (a)(2)(C), (c)(1), (b)(i), and (b)(ii) of this Rule, as amended on September 10, 2010, and the provisions of paragraph (g), shall be in effect during a pilot period set to end on April 8, 2014[September 30, 2013]. If the pilot is not either extended or approved permanent by April 8, 2014[September 30, 2013], the prior versions of paragraphs (a)(2)(C), (c)(1), and (b) shall be in effect, and the provisions of paragraph (g) shall be null and void.

(a) Authority to Review Transactions Pursuant to Complaint of Market Participant

(1) No change.

(2) Requests and Timing of Review.

A member that receives an execution on an order that was submitted erroneously to Nasdaq for its own or customer account may request that Nasdaq review the transaction under this rule. An official of Nasdaq shall review the transaction under dispute and determine whether it is clearly erroneous, with a view toward maintaining a fair and orderly market and the protection of investors and the public interest. Such requests for review shall be made in writing via electronic complaint or other means specified from time to time by Nasdaq as announced in a Notice to Members or Head Trader Alert. A request for review shall include information concerning the time of the transaction(s), security symbol(s), number of shares, price(s), side (bought or sold), and factual basis for believing that the trade is clearly erroneous. Upon receipt of a timely filed request that satisfies the Numerical Guidelines set forth in paragraph (a)(2)(C) the counterparty to the trade shall be notified by Nasdaq as soon as practicable, but generally within 30 minutes. A Nasdaq official may request additional supporting written information to aid in the resolution of the matter. If requested, each party to the transaction shall provide, within 30 minutes of the request, any supporting written information. Either party to the disputed trade may request the supporting written information provided by the other party on the matter.

(A) – (B) No change.

(C) Determinations of a clearly erroneous execution will be made as follows:

(1) *Numerical Guidelines*. Subject to the provisions of paragraph (C)(3) below, a transaction executed shall be found to be clearly erroneous only if the price of the transaction to buy (sell) that is the subject of the complaint is greater than (less than) the Reference Price by an amount that equals or exceeds the Numerical Guidelines set forth below. The execution time of the transaction under review determines whether

the threshold is Regular Trading Hours or Pre-opening and After Hours Trading Hours (which occurs before and after the Regular Trading Hours). The Reference Price will be equal to the consolidated last sale immediately prior to the execution(s) under review except for: (A) Multi- Stock Events involving twenty or more securities, as described in subparagraph (C)(2) below; [(B) transactions not involving a Multi-Stock Event as described in paragraph (C)(2) that trigger a trading pause pursuant to Rule 4120(a)(11)(A) and subsequent transactions, as described in paragraph (C)(4) below, in which case the Reference Price shall be determined in accordance with that paragraph (C)(4);]and (B)[(C)] in other circumstances, such as, for example, relevant news impacting a security or securities, periods of extreme market volatility, sustained illiquidity, or widespread system issues, where use of a different Reference Price is necessary for the maintenance of a fair and orderly market and the protection of investors and the public interest.

Reference Price, Circumstance or Product	Regular Trading Hours Numerical Guidelines (Subject transaction's % difference from the Reference Price):	Pre-Opening and After Hours Trading Session Numerical Guidelines (Subject transaction's % difference from the Reference Price):
Greater than \$0.00 up to and including \$25.00	10%	20%
Greater than \$25.00 up to and including \$50.00	5%	10%
Greater than \$50.00	3%	6%
Multi- Stock Event - Filings involving five or more, but less than twenty, securities whose executions occurred within a period of five minutes or less	10%	10%
Multi-Stock Event - Filings involving twenty or more securities whose executions	30%, subject to the terms of paragraph (C)(2) below	30%, subject to the terms of paragraph (C)(2) below

occurred within a period
of
five minutes or less

Leveraged ETF/ETN securities	Regular Trading Hours Numerical Guidelines multiplied by the leverage multiplier (ie. 2x)	Regular Trading Hours Numerical Guidelines multiplied by the leverage multiplier (ie. 2x)
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(2) *Multi-Stock Events Involving Twenty or More Securities.* During Multi-Stock Events involving twenty or more securities the number of affected transactions is such that immediate finality may be necessary to maintain a fair and orderly market and to protect investors and the public interest. In such circumstances, Nasdaq may use a Reference Price other than consolidated last sale. [With the exception of those securities under review that are subject to an individual stock trading pause pursuant to Rule 4120(a)(11)(A) as described in paragraph (C)(4) below, and to]To ensure consistent application across market centers when this paragraph is invoked, Nasdaq will promptly coordinate with the other market centers to determine the appropriate review period, which may be greater than the period of five minutes or less that triggered application of this paragraph, as well as select one or more specific points in time prior to the transactions in question and use transaction prices at or immediately prior to the one or more specific points in time selected as the Reference Price. Nasdaq will nullify as clearly erroneous all transactions that are at prices equal to or greater than 30% away from the Reference Price in each affected security during the review period selected by Nasdaq and other markets consistent with this paragraph.

(3) *Additional Factors.* Except in the context of a Multi-Stock Event involving five or more securities, [and individual stock trading pauses pursuant to Rule 4120(a)(11)(A) as described in paragraph (C)(4) below]a Nasdaq official may also consider additional factors to determine whether an execution is clearly erroneous, including but not limited to, system malfunctions or disruptions, volume and volatility for the security, derivative securities products that correspond to greater than 100% in the direction of a tracking index, news released for the security, whether trading in the security was recently halted/resumed, whether the security is an IPO, whether the security was subject to a stock-split, reorganization, or other corporate action, overall market conditions, Pre-Opening and After Hours Trading Session executions, validity of the consolidated tapes trades and quotes, consideration of primary market indications, and executions inconsistent with the trading pattern in the stock. Each additional factor shall be considered with a view toward maintaining a fair and orderly market and the protection of investors and the public interest.

[(4) *Individual Stock Trading Pauses pursuant to Rule 4120(a)(11)(A).* For purposes of this paragraph, the phrase “Trading Pause Trigger Price” shall mean the price that triggered a trading pause pursuant to Nasdaq Rule 4120 (a)(11)(A). All trading pauses triggered with respect to securities defined in Rule 4120 (a)(11)(B) and 4120

(a)(11)(C) shall be reviewed under the same provisions of Rule 11890 as non pause-triggered events. The Trading Pause Trigger Price reflects a price calculated by the primary listing market over a rolling five-minute period and may differ from the execution price of a transaction that triggered a trading pause. In the event a primary listing market issues an individual stock trading pause in any eligible securities pursuant to Rule 4120(a)(11)(A), and regardless of whether the security at issue is part of a Multi-Stock Event involving five or more securities as described in paragraphs (C)(1) and (C)(2) above, Nasdaq shall utilize the Trading Pause Trigger Price as the Reference Price for any transactions that trigger a trading pause and subsequent transactions occurring before the trading pause is in effect on Nasdaq. Nasdaq will rely on the primary listing market that issued an individual stock trading pause to determine and communicate the Trading Pause Trigger Price for such stock. Notwithstanding the discretion otherwise provided by the first sentence of paragraph (b)(ii) below, Nasdaq shall review, on its own motion pursuant to paragraph (b)(ii), transactions that trigger a trading pause pursuant to Rule 4120(a)(11)(A) and subsequent transactions occurring before the trading pause is in effect on Nasdaq. In connection with the review of transactions pursuant to this paragraph, Nasdaq will apply the Numerical Guidelines set forth in paragraph (C)(1) above other than the Numerical Guidelines applicable to Multi-Stock Events. In conducting this review, and notwithstanding anything to the contrary contained in paragraph (C)(1), where a trading pause was triggered pursuant to Rule 4120(a)(11)(A) by a price decline (rise), Nasdaq will limit its review to transactions that executed at a price lower (higher) than the Trading Pause Trigger Price.]

(b) Procedures for Reviewing Transactions on Nasdaq's Own Motion

(i) *System Disruption or Malfunctions.* In the event of any disruption or a malfunction in the operation of any electronic communications and trading facilities of Nasdaq in which the nullification of transactions may be necessary for the maintenance of a fair and orderly market or the protection of investors and the public interest exist, the President of Nasdaq or any designated officer or senior level employee ("Senior Official") of Nasdaq, on his or her own motion, may review such transactions and declare such transactions arising out of the operation of such facilities during such period null and void. In such events, the Senior Official will rely on the provisions of paragraph (a)(2)(C)(1)-(3) of this Rule, but in extraordinary circumstances may also use a lower Numerical Guideline if necessary to maintain a fair and orderly market, protect investors and the public interest. Absent extraordinary circumstances, any such action of the Senior Official pursuant to this paragraph (i) shall be taken within thirty (30) minutes of detection of the erroneous transaction. When extraordinary circumstances exist, any such action of the Senior Official must be taken by no later than the start of Regular Trading Hours on the trading day following the date of execution(s) under review. Each Member involved in the transaction shall be notified as soon as practicable by Nasdaq, and the party aggrieved by the action may appeal such action in accordance with the provisions of paragraph (c)(1) below.

(ii) *Senior Official Acting on Own Motion.* A Senior Official, acting on his or her own motion, may review potentially erroneous executions and declare trades null and void or shall

decline to take any action in connection with the completed trade(s). In such events, the Senior Official will rely on the provisions of paragraph (a)(2)(C)(1)-(3)[(4)] of this Rule. Absent extraordinary circumstances, any such action of the Senior Official shall be taken in a timely fashion, generally within thirty (30) minutes of the detection of the erroneous transaction. When extraordinary circumstances exist, any such action of the Senior Official must be taken by no later than the start of Regular Trading Hours on the trading day following the date of execution(s) under review. When such action is taken independently, each party involved in the transaction shall be notified as soon as practicable by Nasdaq, and the party aggrieved by the action may appeal such action in accordance with the provisions of paragraph (c)(1) below.

(c) – (g) No change.