

EXHIBIT 5

The text of the proposed rule change is below. Proposed new text is underlined.

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Rule 1170. The Exchange's Business Continuity and Disaster Recovery Plan Testing Requirements for Members and Options Participants Pursuant to Regulation SCI

With respect to the Exchange's business continuity and disaster recovery plans, including its backup systems, the Exchange shall:

(a) Establish standards for the designation of those Members and Options Participants that the Exchange reasonably determines are, taken as a whole, the minimum necessary for the maintenance of fair and orderly markets in the event of the activation of such plans. Such standards may include volume-based and/or market share-based criteria, and may be adjusted from time to time by the Exchange. The Exchange will provide public notice of the standards;

(b) Designate Members and Options Participants pursuant to the standards established in paragraph (a) of this rule and require participation by such designated Members and Options Participants in scheduled functional and performance testing of the operation of such plans, in the manner and frequency specified by the Exchange, provided that such frequency shall not be less than once every 12 months. The Exchange will provide at least six months prior notice to Members and Options Participants that are designated for mandatory testing, and participation of such Members and Options Participants is a condition of membership.

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