

**EXHIBIT 5**

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

**NASDAQ PHLX Rules**

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**Rule 3317. Compliance with Regulation NMS Plan to Implement a Tick Size Pilot**

(a) No Change

(b) Compliance with Data Collection Requirements

(1) No Change.

(2) The Exchange shall collect and transmit to the SEC the data described in Items I and II of Appendix B of the Plan relating to trading activity in Pre-Pilot Securities and Pilot Securities on a Trading Center operated by the Exchange. The Exchange shall transmit such data to the SEC in a pipe delimited format, on a disaggregated basis by Trading Center, within 30 calendar days following month end for:

(A) Each Pre-Pilot Data Collection Security for the period beginning six months prior to the Pilot Period through [the trading day immediately preceding]thirty-one days prior to the first day of the Pilot Period; and

(B) Each Pilot Security for the period beginning [on]thirty days prior to the first day of the Pilot Period through six months after the end of the Pilot Period. The Exchange also shall make such data publicly available on the Exchange web site on a monthly basis at no charge and shall not identify the Member that generated the data.

(3) Daily Market Maker Participation Statistics Requirement

(A) A Member that is a Market Maker shall collect and transmit to their DEA data relating to Item IV of Appendix B of the Plan, with respect to activity conducted on any Trading Center in Pre-Pilot Securities and Pilot Securities in furtherance of its status as a Market Maker, including a Trading Center that executes trades otherwise than on a national securities exchange, for transactions that have settled or reached settlement date. Market Makers shall transmit such data in a format required by their DEA by 12:00 p.m. EST on T+4:

(i) For transactions in each Pre-Pilot Data Collection Security for the period beginning six months prior to the Pilot Period through [the trading day immediately preceding]thirty-one days prior to the first day of the Pilot Period; and

(ii) For transactions in each Pilot Security for the period beginning [on]thirty days prior to the first day of the Pilot Period through six months after the end of the Pilot Period.

(B) – (C) No Change.

(4) Market Maker Profitability

(A) A Member that is a Market Maker shall collect and transmit to their DEA the data described in Item I of Appendix C of the Plan with respect to executions on any Trading Center that have settled or reached settlement date. Market Makers shall transmit such data in a format required by their DEA by 12:00 p.m. EST on T+4 for executions during and outside of Regular Trading Hours in each:

(i) Pre-Pilot Data Collection Security for the period beginning six months prior to the Pilot Period through [the trading day immediately preceding]thirty-one days prior to the first day of the Pilot Period; and

(ii) Pilot Security for the period beginning [on]thirty days prior to the first day of the Pilot Period through six months after the end of the Pilot Period.

(B) No Change.

(5) No Change.

(c) No Change.

**Commentary:**

.01 – .03 No Change.

.04 (a) For purposes of Appendix B.I.a(14), B.I.a(15), B.I.a(21) and B.I.a(22), the time ranges shall be changed as follows:

([a]1) Appendix B.I.a(14A): The cumulative number of shares of orders executed from 100 microseconds to less than 1 millisecond after the time of order receipt;

([b]2) Appendix B.I.a(15): The cumulative number of shares of orders executed from 1 millisecond to less than 100 milliseconds after the time of order receipt;

([c]3) Appendix B.I.a(21A): The cumulative number of shares of orders canceled from 100 microseconds to less than 1 millisecond after the time of order receipt; and

([d]4) Appendix B.I.a(22): The cumulative number of shares of orders canceled from 1 millisecond to less than 100 milliseconds after the time of order receipt.

(b) For purposes of Appendix B.I.a(21) through B.I.a(27), unexecuted Immediate or Cancel orders shall be categorized separately irrespective of the duration of time after order receipt.

.05 No Change.

.06 For purposes of Appendix B, the following order types and numbers shall be included and assigned the following numbers: “not held” orders (18); clean cross orders (19); auction orders (20); and orders that cannot otherwise be classified, including orders received when the NBBO is crossed (21)[.]; and limit order priced more than \$0.10 away from the NBBO (22). For purposes of order types 12-14 in Appendix B, such order types shall include all orders and not solely “resting” orders.

.07 – .08 No Change.

.09 For purposes of Appendix B.IV, the count of the number of Market Makers used in the calculation of share (trade) participation shall be added to each category. For purposes of Appendix B.IV(b) and (c), share participation and trade participation shall be calculated by using a total count instead of a share-weighted average or a trade-weighted average. For purposes of Appendix B, B.IV(d) (cross-quote share (trade) participation), (e) (inside-the-quote share (trade) participation), (f) (at-the-quote share (trade) participation), and (g) (outside-the-quote share (trade) participation), shall be calculated by reference to the National Best Bid or National Best Offer in effect immediately prior to the trade.

.10 For purposes of Item I of Appendix C, the Participants shall calculate daily Market Maker realized profitability statistics for each trading day on a daily last in, first out (LIFO) basis using reported trade price and shall include only trades executed on the subject trading day. The daily LIFO calculation shall not include any positions carried over from previous trading days. For purposes of Item I.c of Appendix C, the Participants shall calculate daily Market Maker unrealized profitability statistics for each trading day on an average price basis. Specifically, the Participants must calculate the volume weighted average price of the excess (deficit) of buy volume over sell volume for the current trading day using reported trade price. The gain (loss) of the excess (deficit) of buy volume over sell volume shall be determined by using the volume weighted average price compared to the closing price of the security as reported by the primary listing exchange. In calculating unrealized trading profits, the Participant also shall report the number of excess (deficit) shares held by the Market Maker, the volume weighted average price of that excess (deficit), and the closing price of the security as reported by the primary listing exchange used in reporting unrealized profit.

.11 “Pre-Pilot Data Collection Securities” are the securities designated by the Participants for purposes of the data collection requirements described in Items I, II and IV of Appendix B and Item I of Appendix C of the Plan for the period beginning six months prior to the Pilot Period [and ending on the trading day immediately

preceding]through thirty-one days prior to the Pilot Period. The Participants shall compile the list of Pre-Pilot Data Collection Securities by selecting all NMS stocks with a market capitalization of \$5 billion or less, a Consolidated Average Daily Volume (CADV) of 2 million shares or less and a closing price of \$1 per share or more. The market capitalization and the closing price thresholds shall be applied to the last day of the Pre-Pilot measurement period, and the CADV threshold shall be applied to the duration of the Pre-Pilot measurement period. The Pre-Pilot measurement period shall be the three calendar months ending on the day when the Pre-Pilot Data Collection Securities are selected. The Pre-Pilot Data Collection Securities shall be selected thirty days prior to the commencement of the six-month Pre-Pilot Period.

.1[1]2 This Rule shall be in effect during a pilot period to coincide with the pilot period for the Plan (including any extensions to the pilot period for the Plan).

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