

EXHIBIT 5

Proposed new text is underlined; Deleted text is [bracketed].

NASDAQ Stock Market Rules**Equity Rules**

* * * * *

2460. Payments for Market Making

(a) No member or person associated with a member shall accept any payment or other consideration, directly or indirectly, from an issuer of a security, or any affiliate or promoter thereof, for publishing a quotation, acting as market maker in a security, or submitting an application in connection therewith.

(b) – (c) **No Change.**

IM-2460-1. Market Quality Program

This Rule 2460 is not applicable to a member that is accepted into the Market Quality Program pursuant to Rule 5950 or to a person that is associated with such member for their conduct in connection with that program.

* * * * *

5950. Market Quality Program

Preamble. The Market Quality Program ("MQP" or "Program") is a voluntary program designed to promote market quality in certain securities listed on Nasdaq. An MQP Company may list an eligible MQP Security on Nasdaq and in addition to the standard (non-MQP) Nasdaq listing fee set forth in the Rule 5000 Series (consisting of Rules 5000-5999), a Sponsor may pay a fee ("MQP Fee") in order for the MQP Company, on behalf of an MQP Security, to participate in the Program. An MQP Fee will be used for the purpose of incentivizing one or more Market Makers in the MQP Security ("MQP Market Maker") to enhance the market quality of the MQP Security. Subject to the conditions set forth in this rule, this incentive will be credited ("MQP Credit") to one or more MQP Market Makers that make a quality market in the MQP Security pursuant to the Program.

(a) Application and Withdrawal.

(1) An entity or Market Maker wishing to participate in the MQP must each submit an application in the form prescribed by Nasdaq ("MQP application").

(A) Nasdaq may, on a Program-wide basis, limit the number of MQP Securities that any one MQP Company may have in the MQP.

(B) In determining whether to limit the number of MQP Securities per MQP Company, Nasdaq will consider all relevant information, including whether a restriction, if any, is in the best interest of Nasdaq, the MQP Company and the goals of the MQP, and investors.

(i) Factors that may be considered include, but are not limited to, the following: the current and expected liquidity characteristics of MQP Securities; the projected initial and continuing market quality needs of MQP Securities; and the trading characteristics of MQP Securities (e.g. quoting, trading, and volume).

(C) Nasdaq will provide notification on its website regarding the following:

(i) acceptance of an MQP Company, on behalf of an MQP Security, and an MQP Market Maker into the Program;

(ii) the total number of MQP Securities that any one MQP Company may have in the Program;

(iii) the names of MQP Securities and the MQP Market Maker(s) in each MQP Security, and the dates that an MQP Company, on behalf of an MQP Security, commences participation in and withdraws or is terminated from the Program; and

(iv) a statement about the MQP that sets forth a general description of the Program as implemented on a pilot basis and a fair and balanced summation of the potentially positive aspects of the Program (e.g. enhancement of liquidity and market quality in MQP Securities) as well as the potentially negative aspects and risks of the Program (e.g. possible lack of liquidity and negative price impact on MQP Securities that withdraw or are terminated from the Program), and indicates how interested parties can get additional information about products in the Program.

(2) An MQP Company, on behalf of an MQP Security, or MQP Market Maker may withdraw from the Program as follows:

(A) After an MQP Company, on behalf of an MQP Security, is in the MQP for not less than two consecutive quarters but less than one year, it may voluntarily withdraw from the MQP on a quarterly basis. The MQP Company must notify Nasdaq in writing not less than one month prior to withdrawing from the MQP. Notwithstanding, Nasdaq may determine to allow an MQP Company to withdraw from the MQP earlier. In making this

determination, Nasdaq may take into account the volume and price movements in the MQP Security; the liquidity, size quoted, and quality of the market in the MQP Security; and any other relevant factors.

(B) After an MQP Company, on behalf of an MQP Security, is in the MQP for one year or more, it may voluntarily withdraw from the MQP on a monthly basis. The MQP Company must notify Nasdaq in writing not less than one month prior to withdrawing from the MQP.

(C) After an MQP Market Maker is in the MQP for not less than one quarter, he may withdraw from the MQP on a quarterly basis. The MQP Market Maker must notify Nasdaq in writing one month prior to withdrawing from the MQP.

(D) Nasdaq will provide notification on its website when it receives notification that an MQP Company, on behalf of an MQP Security, or Market Maker intends to withdraw from the Program, and the date of actual withdrawal or termination from the Program.

(3) After an MQP Company, on behalf of an MQP Security, is in the MQP for one year, the MQP and all obligations and requirements of the Program will automatically continue on an annual basis unless Nasdaq terminates the Program by providing not less than one month prior notice of intent to terminate or the pilot Program is not extended or made permanent pursuant to a proposed rule change subject to filing with or approval by the Securities and Exchange Commission ("Commission") under Section 19(b) of the Exchange Act; the MQP Company withdraws from the Program pursuant to subsection (a)(2) of this rule; or the MQP Company is terminated from the Program pursuant to subsection (d) of this rule.

(b) MQP Company Participation and Fee Liability.

(1) For an MQP Company, on behalf of an MQP Security, to be eligible to participate in the MQP, the following conditions must be satisfied:

(A) Nasdaq must have accepted the MQP application of the MQP Company in respect of an MQP Security, and must have accepted the MQP application of at least one MQP Market Maker in the same MQP Security;

(B) The MQP Security must meet all requirements to be listed on Nasdaq as an Exchange Traded Fund ("ETF");

(C) The MQP Security must meet all Nasdaq requirements for continued listing at all times the MQP Security participates in the MQP; and

(D) During such time that an MQP Company lists an MQP Security, the MQP Company must, on a product-specific website for each product, indicate that the product is in the MQP and provide the link to the Exchange's MQP website.

(2) MQP Fees.

(A) An MQP Company participating in the MQP shall incur an annual basic MQP Fee of \$50,000 per MQP Security. The basic MQP Fee must be paid to NASDAQ prospectively on a quarterly basis.

(B) An MQP Company may also incur an annual supplemental MQP Fee per MQP Security. The basic MQP Fee and supplemental MQP Fee when combined may not exceed \$100,000 per year. The supplemental MQP Fee is a fee selected by an MQP Company on an annual basis, if at all. The supplemental MQP Fee must be paid to NASDAQ prospectively on a quarterly basis.

(i) The amount of the supplemental MQP Fee, if any, will be determined by the MQP Company initially per MQP Security and will remain the same for the period of a year.

(ii) Nasdaq will provide notification on its website regarding the amount, if any, of any supplemental MQP Fee determined by an MQP Company per MQP Security.

(C) The MQP Fee is in addition to the standard (non-MQP) Nasdaq listing fee applicable to the MQP Security and does not offset such standard listing fee.

(i) The MQP Fee in respect of an ETF shall be paid by the Sponsor(s) of such ETF.

(D) Nasdaq will prospectively bill each MQP Company for the quarterly MQP Fee for each MQP Security.

(E) MQP Fees (basic and supplemental) will be credited to the Nasdaq General Fund.

(c) MQP Market Maker Participation and MQP Credit.

(1) For a Market Maker to be eligible to participate in the MQP and receive a periodic MQP Credit out of the Nasdaq General Fund, the following conditions must be satisfied:

(A) Nasdaq must have accepted the MQP application of an MQP Market Maker in respect of an MQP Security, and must have accepted the application of the MQP Company in respect of the same MQP Security. Nasdaq may also accept the MQP applications of multiple MQP Market Makers in the same MQP Security, subject to any limitation on the number of MQP Market Makers established pursuant to this rule; and

(B) When making markets in MQP Securities, MQP Market Makers must meet the applicable Market Maker obligations pursuant to Rule 4613, and also meet or exceed the following requirements on a monthly basis:

(i) For at least 25% of the time when quotes can be entered in the Regular Market Session as averaged over the course of a month, must maintain: a) at least 500 shares of attributable, displayed quotes or orders at the NBBO or better *on the bid side* of an MQP Security; and b) at least 500 shares of attributable, displayed quotes or orders at the NBBO or better *on the offer side* of an MQP Security; and

(ii) For at least 90% of the time when quotes can be entered in the Regular Market Session as averaged over the course of a month, must maintain: a) at least 2,500 shares of attributable, displayed posted liquidity on the Nasdaq Market Center that are priced no wider than 2% away from the NBBO *on the bid side* of an MQP Security; and b) at least 2,500 shares of attributable, displayed posted liquidity on the Nasdaq Market Center that are priced no wider than 2% away from the NBBO *on the offer side* of an MQP Security.

(2) MQP Credits for each MQP Security will be calculated monthly and credited out of the Nasdaq General Fund quarterly on a pro rata basis to one or more eligible MQP Market Makers as follows:

(A) Each MQP Credit will be allocated 50% to a Quote Share Payment that is based on Qualified Quotes, and 50% to a Trade Share Payment that is based on Qualified Trades.

(i) A Qualified Quote represents attributable and displayed liquidity (either quotes or orders) in an MQP Security. Further, a quote or order entered by an MQP Market Maker in an MQP Security is only a Qualified Quote if it is posted within 2% of the NBBO.

(ii) A Qualified Trade in an MQP Security represents a liquidity-providing execution of a Qualified Quote on the Nasdaq Market Center.

(B) Trade Share Payments and Quote Share Payments.

(i) Trade Share Payments will be based upon each MQP Market Maker's share of total Qualified Trades in an MQP Security executed on the Nasdaq Market Center.

(ii) Quote Share Payments will be based in equal proportions on: a) average quoted size at or better than NBBO, and b) average time spent quoting at or better than NBBO.

(iii) Trade Share Payments and Quote Share Payments are comprised of basic MQP Fees and supplemental MQP Fees, if any.

(C) An MQP Credit will be credited quarterly to an MQP Market Maker on a pro rata basis for each month during such quarter that an MQP Market Maker is eligible to receive a credit pursuant to this rule. The calculation to establish the eligibility of an MQP Market Maker will be done on a monthly basis. For example, if during a quarter an MQP Market Maker was eligible to receive a credit for two out of three months, he would receive a quarterly pro rata MQP Credit for those two months.

(3) Nasdaq may, on a Program-wide basis, limit the number of MQP Market Makers permitted to register in an MQP Security. Nasdaq will provide notification on its website of any such limit.

(A) If a limit is established, Nasdaq will allocate available MQP Market Maker registrations in a first-come-first-served fashion based on successful completion of an MPQ Market Maker application.

(d) Termination of MQP.

(1) The MQP will terminate in respect of an MQP Security under the following circumstances:

(A) An MQP Security sustains an average daily trading volume (consolidated trades in all U.S. markets) ("ATV") of one million shares or more for three consecutive months;

(B) An MQP Company, on behalf of an MQP Security, withdraws from the MQP, is no longer eligible to be in the MQP pursuant to this rule, or its Sponsor ceases to make MQP Fee payments to Nasdaq;

(C) An MQP Security is delisted or is no longer eligible for the MQP;

(D) An MQP Security does not have at least one MQP Market Maker for more than one quarter; or

(E) An MQP Security does not, for two consecutive quarters, have at least one MQP Market Maker that is eligible for MQP Credit.

(2) MQP Credits remaining upon termination of the MQP in respect of an MQP Security will be distributed on a pro rata basis to the MQP Market Makers that made a market in such MQP Security and were eligible to receive MQP Credit pursuant to this rule.

(3) Termination of an MQP Company, MQP Security, or MQP Market Maker does not preclude the Exchange from allowing re-entry into the Program where the Exchange deems proper.

(e) Definitions. For purposes of this Rule, the terms set forth below shall have the following meanings:

(1) The term “MQP Security” means an Exchange Traded Fund security issued by an MQP Company that meets all of the requirements to be listed on Nasdaq pursuant to Rule 5705.

(2) The term “Exchange Traded Fund” includes Portfolio Depository Receipts and Index Fund Shares, which are defined in Rule 5705.

(3) The term "Market Maker" shall have the meaning given in Rule 5005(a)(24).

(4) The term "Nasdaq Market Center" shall have the meaning given in Rule 4751(a).

(5) The term “MQP Company” means the trust or company housing the Exchange Traded Fund or, if the Exchange Traded Fund is not a series of a trust or company, then the Exchange Traded Fund itself. MQP Fees for MQP Securities will be paid by the Sponsors associated with the MQP Companies. The term Sponsor means the registered investment adviser that provides investment management services to an MQP Company or any of such adviser’s parents or subsidiaries.

(6) The term “Regular Market Session” shall have the meaning given in Rule 4120(b)(4)(D).

(f) The MQP will be effective for a one year pilot period that will commence when the Program is implemented by Exchange acceptance of an MQP Company, on behalf of an MQP Security, and relevant MQP Market Maker into the Program and will end one year after implementation.

* * * * *