

**EXHIBIT 5**

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

**The Nasdaq Stock Market LLC Rules**

\* \* \* \* \*

**5100. Nasdaq's Regulatory Authority****5101. Preamble to the Rule 5100 Series**

Nasdaq is entrusted with the authority to preserve and strengthen the quality of and public confidence in its market. Nasdaq stands for integrity and ethical business practices in order to enhance investor confidence, thereby contributing to the financial health of the economy and supporting the capital formation process. Nasdaq Companies, from new public Companies to Companies of international stature, are publicly recognized as sharing these important objectives.

Nasdaq, therefore, in addition to applying the enumerated criteria set forth in the Rule 5000 Series, has broad discretionary authority over the initial and continued listing of securities in Nasdaq in order to maintain the quality of and public confidence in its market, to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and to protect investors and the public interest. Nasdaq may use such discretion to deny initial listing, apply additional or more stringent criteria for the initial or continued listing of particular securities, or suspend or delist particular securities based on any event, condition, or circumstance that exists or occurs that makes initial or continued listing of the securities on Nasdaq inadvisable or unwarranted in the opinion of Nasdaq, even though the securities meet all enumerated criteria for initial or continued listing on Nasdaq. In all circumstances where the Listing Qualifications Department (as defined in Rule 5805) exercises its authority under Rule 5101, the Listing Qualifications Department shall issue a Staff Delisting Determination under Rule 5810(c)(1), and in all circumstances where an Adjudicatory Body (as defined in Rule 5805) exercises such authority, the use of the authority shall be described in the written decision of the Adjudicatory Body.

**IM-5101-1. Use of Discretionary Authority**

To further Companies' understanding of Rule 5101, Nasdaq has adopted this Interpretive Material as a non-exclusive description of the circumstances in which the Rule is generally invoked.

**(a) History of Regulatory Misconduct**

Nasdaq may use its authority under Rule 5101 to deny initial or continued listing to a Company when an individual with a history of regulatory misconduct is associated with the Company. Such individuals are typically an officer, director, Substantial Shareholder

(as defined in Rule 5635(e)(3)), or consultant to the Company. In making this determination, Nasdaq will consider a variety of factors, including:

- the nature and severity of the conduct, taken in conjunction with the length of time since the conduct occurred;
- whether the conduct involved fraud or dishonesty;
- whether the conduct was securities-related;
- whether the investing public was involved;
- how the individual has been employed since the violative conduct;
- whether there are continuing sanctions (either criminal or civil) against the individual;
- whether the individual made restitution;
- whether the Company has taken effective remedial action; and
- the totality of the individual's relationship to the Company, giving consideration to:
  - the individual's current or proposed position;
  - the individual's current or proposed scope of authority;
  - the extent to which the individual has responsibility for financial accounting or reporting; and
  - the individual's equity interest.

Based on this review, Nasdaq may determine that the regulatory history rises to the level of a public interest concern, but may also consider whether remedial measures proposed by the Company, if taken, would allay that concern. Examples of such remedial measures could include any or all of the following, as appropriate:

- the individual's resignation from officer and director positions, and/or other employment with the Company;
- divestiture of stock holdings;
- terminations of contractual arrangements between the Company and the individual; or

- the establishment of a voting trust surrounding the individual's shares.

[Nasdaq staff is willing to discuss with Companies, on a case-by-case basis, what remedial measures may be appropriate to address public interest concerns, and for how long such remedial measures would be required. Alternatively, Nasdaq may conclude that a public interest concern is so serious that no remedial measure would be sufficient to alleviate it. In the event that Nasdaq staff denies initial or continued listing based on such public interest considerations, the Company may seek review of that determination through the procedures set forth in the Rule 5800 Series. On consideration of such appeal, a listing qualifications panel comprised of persons independent of Nasdaq may accept, reject or modify the staff's recommendations by imposing conditions.]

#### (b) Audit Concerns

Accurate financial statement disclosure is critical for investors to make informed investment decisions. Nasdaq and investors rely on the work of auditors to provide reasonable assurance that the financial statements provided by the Company are free of material misstatements. Accordingly, in order to preserve and strengthen the quality of and public confidence in the Nasdaq market, and in order to enhance investor confidence, Nasdaq may rely upon Listing Rule 5101 to deny initial or continued listing or to apply additional and more stringent criteria to an applicant or a Nasdaq-listed Company based on the following considerations related to the Company's auditor:

(1) whether the auditor has been subject to a PCAOB inspection, such as where the auditor is newly formed and has therefore not yet undergone a PCAOB inspection or where the auditor, or an accounting firm engaged to assist with the audit, is located in a jurisdiction that limits the PCAOB's ability to inspect the auditor;

(2) if the Company's auditor has been inspected by the PCAOB, whether the results of that inspection indicate that the auditor has failed to respond to any requests by the PCAOB or that the inspection has uncovered significant deficiencies in the auditors' conduct in other audits or in its system of quality controls;

(3) whether the auditor can demonstrate that it has adequate personnel in the offices participating in the audit with expertise in applying U.S. GAAP, GAAS or IFRS, as applicable, in the Company's industry;

(4) whether the auditor's training program for personnel participating in the Company's audit is adequate;

(5) for non-U.S. auditors, whether the auditor is part of a global network or other affiliation of individual auditors where the auditors draw on globally common technologies, tools, methodologies, training and quality assurance monitoring; and

(6) whether the auditor can demonstrate to Nasdaq sufficient resources, geographic reach or experience as it relates to the company's audit.

Examples of additional and more stringent criteria that Nasdaq may apply to an applicant or a Nasdaq-listed Company to obtain comfort that the Company satisfies the financial listing requirements and is suitable for listing could include requiring: (i) higher equity, assets, earnings, or liquidity measures than otherwise required under the Rule 5000 Series; (ii) that any offering be underwritten on a firm commitment basis, which typically involves more due diligence by the broker-dealer than would be done in connection with a best-efforts offering; or (iii) companies to impose lock-up restrictions on officers and directors to allow market mechanisms to determine an appropriate price for the Company before such insiders can sell shares. In some cases, Nasdaq may determine that listing is not appropriate and deny initial or continued listing to a Company.

(c) Other Examples of the Use of Discretionary Authority

Nasdaq may also use its discretionary authority[, for example,] to impose additional or more stringent criteria, **including the criteria set forth in IM-5101-1(b)**, in other circumstances. Examples of such use could include:

(1) when a Company files for protection under any provision of the federal bankruptcy laws or comparable foreign laws[.];

(2) when a Company's independent accountants issue a disclaimer opinion on financial statements required to be audited[, or];

(3) when financial statements do not contain a required certification[.]; or

(4) when a Company's business is principally administered in a jurisdiction that Nasdaq determines to have secrecy laws, blocking statutes, national security laws or other laws or regulations restricting access to information by regulators of U.S.-listed companies in such jurisdiction (a "Restrictive Market"). In determining whether a Company's business is principally administered in a Restrictive Market, Nasdaq may consider the geographic locations of the Company's: (a) principal business segments, operations or assets; (b) board and shareholders' meetings; (c) headquarters or principal executive offices; (d) senior management and employees; and (e) books and records.

In addition, pursuant to its discretionary authority, Nasdaq will review the Company's past corporate governance activities. This review may include activities taking place while the Company is listed on Nasdaq or an exchange that imposes corporate governance requirements, as well as activities taking place after a formerly listed company is no longer listed on Nasdaq or such an exchange. Based on such review, and in accordance with the Rule 5800 Series, Nasdaq may take any appropriate action, including placing restrictions on or additional requirements for listing, or denying listing of a security, if Nasdaq determines that there have been violations or evasions of such corporate governance standards. Such determinations will be made on a case-by-case basis as necessary to protect investors and the public interest.

(d) No Authority to Grant Exemptions or Exceptions

Although Nasdaq has broad discretion under Rule 5101 to impose additional or more stringent criteria, the Rule does not provide a basis for Nasdaq to grant exemptions or exceptions from the enumerated criteria for initial or continued listing, which may be granted solely pursuant to rules explicitly providing such authority.

(e) Remedial Measures

Nasdaq staff is willing to discuss with Companies, on a case-by-case basis, what remedial measures may be appropriate to address public interest concerns, and for how long such remedial measures would be required. Alternatively, Nasdaq may conclude that a public interest concern is so serious that no remedial measure would be sufficient to alleviate it. In the event that Nasdaq staff denies initial or continued listing based on such public interest considerations, the Company may seek review of that determination through the procedures set forth in the Rule 5800 Series. On consideration of such appeal, a Hearings Panel (as defined in Rule 5805(d)) comprised of persons independent of Nasdaq may accept, reject or modify the staff's recommendations by imposing conditions.

\* \* \* \* \*