

EXHIBIT 5

Text of the Proposed Rule Change

(additions are underlined; deletions are [bracketed])

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**Chicago Board Options Exchange, Incorporated
Rules**

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Rule 6.2B. Hybrid Opening System (“HOSS”)

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. . . Interpretations and Policies:

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.03 HAL Opening Procedure: This Interpretation and Policy governs the operation of the Hybrid Agency Liaison (“HAL”) for openings for a trading session. The Exchange shall designate the classes in which HAL shall be activated for openings. The Exchange shall also determine on a class-by-class basis the exposure period (which period of time shall not exceed 1.5 seconds) and allocation period (which period of time, when combined with the designated exposure time period (as opposed to an exposure period that is terminated early), shall not exceed a total of 3 seconds). For such classes, the following procedures shall apply in lieu of paragraph (e) above.

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(c) For purposes of this Interpretation and Policy:

(i) No change.

(ii) The exposure process will be conducted via HAL pursuant to Rule 6.14A. In addition, any remaining balance of orders not executed via HAL on the opening that are priced or would be executed at a price that is not within an acceptable tick distance from the initial HAL price will route via the order handling system pursuant to Rule 6.12 [as determined by the Exchange on a class-by-class basis to PAR or, at the order entry firm’s discretion, to the order entry firm’s booth] (except that any remaining balance of opening contingency orders will be cancelled). [If an order is not eligible to route to PAR, then the remaining balance will be cancelled.] An “acceptable tick distance” shall be determined by the Exchange on a series-by-series and premium basis and shall be no less than 2 minimum increment ticks. For classes in which HAL is activated, the acceptable

tick distance will be the same as the acceptable tick distance established under Rule 6.13(b)(v).

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Rule 6.12. CBOE Hybrid Order Handling System

This rule describes the process for routing orders through the Exchange's order handling system in classes designated for trading on the CBOE Hybrid System. The order handling system is a feature within the Hybrid System to route orders for automatic execution, book entry, open outcry, or further handling by a broker, agent, or PAR Official, in a manner consistent with Exchange Rules and the Act (e.g., resubmit the order to the Hybrid System for automatic execution, route the order from a booth to a PAR workstation, cancel the order, contact the customer for further instructions, and/or otherwise handle the order in accordance with Exchange Rules and the order's terms.).

(a) Orders may route through the order handling system for electronic processing in the Hybrid System or to a designated order management terminal or PAR Workstation in any of the circumstances described below. Routing designations may be established based on various parameters defined by the Exchange, order entry firm or Trading Permit Holder, as applicable.

(1) AutoEx and Book Kick-Outs: Under Rules 6.2B, 6.13 and 6.53C, orders or the remaining balance of orders initially routed from an order entry firm for electronic processing that are not eligible for automatic execution or book entry will by default route to a PAR workstation designated by the order entry firm. If an order entry firm has not designated a PAR workstation or if a PAR workstation is unavailable, the remaining balance will route to an order management terminal designated by the order entry firm. If it is not eligible to route to a PAR workstation or order management terminal designated by the order entry firm, the remaining balance will be returned to the order entry firm.

(2) OMT/PAR Workstation Routing: Orders may be routed back and forth between an order management terminal and a PAR workstation by Trading Permit Holders. Orders may be routed from a PAR workstation to an order management terminal by a PAR Official based on instructions from the Trading Permit Holder or if the PAR Official is unable to book or execute the order from, or maintain the order on, the PAR workstation.

(3) Limit Order Price Parameter for Simple Orders: Limit orders will route directly from an order entry firm to an order management terminal designated by the order entry firm when initially routed to the Exchange if:

(i) prior to the opening (including before a series is opened following a halt), the order is to buy at more than an acceptable tick distance above the Exchange's previous day's close or the order is to sell at more than an acceptable

tick distance below the Exchange's previous day's close (this subparagraph is not applicable to Exchange Market-Makers or away Market-Makers), or

(ii) once a series has opened, the order is to buy at more than an acceptable tick distance above the disseminated Exchange offer or the order is to sell at more than an acceptable tick distance below the disseminated Exchange bid.

For purpose of this subparagraph (a)(3): An "acceptable tick distance" (which is referred to as an "ATD"), as determined by the Exchange on a series by series and premium basis and announced to the Trading Permit Holders via Regulatory Circular, shall be no less than 5 minimum increment ticks for simple orders. The Exchange may also determine on a class by class basis and announce via Regulatory Circular whether to apply paragraphs (a)(3)(i) and/or (ii) to immediate-or-cancel orders. The limit order price parameter will take precedence over another routing parameter to the extent that both are applicable to an incoming limit order.

(4) Limit Order Price Parameter for Complex Orders: Limit orders will route directly from an order entry firm to an order management terminal designated by the order entry firm if:

(i) prior to the opening (including before a series is opened following a halt), the order is priced at a net debit that is more than an acceptable tick distance above the derived net market using the Exchange's previous day's close in the individual series legs comprising the complex order or the order is priced at a net credit that is more than an acceptable tick distance below the derived net market using the Exchange's previous day's close in the individual series legs comprising the complex order (this subparagraph is not applicable to stock-option orders or orders for the account of Exchange Market-Makers or away Market-Makers); or

(ii) once a series has opened, the order is priced at a net debit that is more than an acceptable tick distance above the opposite side derived net market using the Exchange's best bid or offer in the individual series legs comprising the complex order or the order is priced at a net credit that is more than an acceptable tick distance below the opposite side derived net market based on the individual series legs comprising the complex order (this subparagraph is not applicable to stock-option orders).

For purposes of this subparagraph (a)(4): An "acceptable tick distance" (which is also referred to as an "ATD"), as determined by the Exchange on a class by class and net premium basis and announced to the Trading Permit Holders via Regulatory Circular, shall be no less than 5 minimum net price increment ticks for complex orders. The Exchange may determine on a class by class basis and announce via Regulatory Circular whether to apply paragraphs (a)(4)(i) and/or (ii) to immediate-or-cancel complex orders. The limit order price parameter will take precedence over another routing parameter to the extent that both are applicable to an incoming limit order.

(5) Direct Routing: Orders may route directly from an order entry firm for electronic processing or to an order management terminal or a PAR workstation based on parameters prescribed by the order entry firm.

(6) System Disruptions or Malfunctions: Orders will route to an order management terminal designated by the order entry firm or Trading Permit Holder, or a terminal designated and maintained by the Exchange as a back-up to order entry firms' and Trading Permit Holders' designated order management terminals, in the event of certain system disruptions or malfunctions that affect the ability of orders to reach or be processed at their intended designation.

(b) Order management terminals are located in the booths on the Exchange floor. Each order entry firm must designate an order management terminal(s) for receiving routed orders via the order handling system. An order entry firm may elect to have its orders routed to an order management terminal(s) operated by the firm and/or an order management terminal(s) operated by another Trading Permit Holder(s).

...Interpretations and Policies:

.01 For purposes of subparagraphs (a)(3) and (4): the senior official on the Exchange Help Desk or two Floor Officials may grant intra-day relief by widening or inactivating one or more of the applicable ATD parameter settings in the interest of a fair and orderly market.

(a) Notification of intra-day relief will be announced as soon as reasonably practical via verbal message to the trading floor, order management terminal message to TPH organizations on the trading floor, and electronic message to Trading Permit Holders that request to receive such messages. Such intra-day relief will not extend beyond the trade day on which it is granted, unless a determination to extend such relief is announced to Trading Permit Holders via Regulatory Circular. The Exchange will make and keep records to document all determinations to grant intra-day relief under this Rule, and shall maintain those records in accordance with Rule 17a-1 under the Exchange Act.

(b) The Exchange will periodically review determinations to grant intra-day relief for consistency with the interest of a fair and orderly market.

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Rule 6.13. CBOE Hybrid System Automatic Execution Feature

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(b) Automatic Execution:

Orders eligible for automatic execution through the CBOE Hybrid System may be automatically executed in accordance with the provisions of this Rule, Rule 6.13A or 6.14A, as applicable. This section governs automatic executions and split-price automatic executions. The automatic execution and allocation of orders or quotes submitted by market participants also is governed by Rules 6.45A(c) and (d) and Rules 6.45B(c) and (d).

(i) Eligibility: The Exchange shall designate the eligible order size, eligible order type, eligible order origin code (i.e., public customer orders, non-Market-Maker broker-dealer orders, and Market-Maker broker-dealer orders), and classes in which the automatic execution feature shall be activated, subject to the following:

(A) (1) No change.

(2) Hybrid 3.0 Eligibility and Process: For Hybrid 3.0 classes, all eligible orders will receive automatic execution against public customer orders in the electronic book. Any remaining balance of the order may be represented in the electronic book provided such order is eligible for book entry pursuant to Rule 7.4. If the order is not eligible for book entry, or at the order entry firm's discretion, the order will route via the order handling system pursuant to Rule 6.12 [to PAR or the order entry firm's booth. If an order is not eligible to route to PAR, then the remaining balance will be cancelled].

(B) Orders Not Eligible for Automatic Execution: Orders not eligible for automatic execution will route via the order handling system pursuant to Rule 6.12 [on a class-by-class basis to PAR or, at the order entry firm's discretion, to the order entry firm's booth. If an order is not eligible to route to PAR, then the remaining balance will be cancelled].

(C) No change.

(ii) No change.

(iii) Split Price Executions: For Hybrid classes, incoming eligible orders of a size greater than the disseminated size shall receive an automatic execution for a size up to the disseminated size. The remaining balance of the order if marketable, will automatically execute at the revised disseminated price provided the revised disseminated price represents the NBBO (if the revised price is inferior to NBBO the remaining balance of the order will route via the order handling system pursuant to Rule 6.12, [to PAR or, at the order entry firm's discretion, the order entry firm's booth] or for processing pursuant to 6.14A[; if an order is not eligible to route to PAR, then the remaining balance will be cancelled]). If not marketable, the remaining balance of the order will be automatically represented in the electronic book provided such order is eligible for book entry pursuant to Rule 7.4. If the order is not eligible for book entry, it will route via the order handling system pursuant to Rule 6.12 [to PAR or, at the order entry firm's discretion to the order entry firm's booth. If an order is not eligible to route to PAR, then the remaining balance will be cancelled]. Pronouncements pursuant to this provision shall be made by the Exchange and announced via Regulatory Circular.

(iv) Executions at NBBO: Eligible orders in classes that are multiply traded will not be automatically executed on CBOE at prices that are inferior to the NBBO and

instead shall route to HAL pursuant to Rule 6.14A [, the PAR workstation in the trading crowd] or via the order handling system pursuant to Rule 6.12 [, at the order entry firm's discretion, to the order entry firm's booth]. Eligible orders received while the CBOE market is locked (*e.g.*, \$1.00 bid - \$1.00 offered) shall be eligible for automatic execution at CBOE's disseminated quote, provided that the disseminated quote is not inferior to the NBBO. Eligible orders received while the CBOE market is crossed with the disseminated market of another exchange (*e.g.* CBOE \$1.20 bid while another exchange is disseminating a \$1.15 offer) shall be eligible for automatic execution at CBOE's disseminated quote, provided that the disseminated quote is not inferior to the NBBO.

(v) Market-Width and Drill Through Price Check Parameters [for HAL and All Other Classes]: The CBOE Hybrid System will not automatically execute eligible orders that are marketable if (1) the width between the national best bid and national best offer is not within an acceptable price range (as determined by the Exchange on a series-by-series basis for market orders and/or marketable limit orders and announced to the Trading Permit Holders via Regulatory Circular), or (2) the execution would follow an initial partial execution on the Exchange and would be at a subsequent price that is not within an acceptable tick distance from the initial execution (as determined by the Exchange on a series by series and premium basis for market orders and/or marketable limit orders and announced to the Trading Permit Holders via Regulatory Circular). For purposes of this subparagraph:

(A) An "acceptable price range" ("APR") shall be determined by the Exchange on a [class-by-class] series-by-series basis and shall be no less than: \$0.375 between the bid and offer for each option contract for which the bid is less than \$2, \$0.60 where the bid is at least \$2 but does not exceed \$5, \$0.75 where the bid is more than \$5 but does not exceed \$10, \$1.20 where the bid is more than \$10 but does not exceed \$20, and \$1.50 where the bid is more than \$20. An "acceptable tick distance" ("ATD") shall be no less than 2 minimum increment ticks.

(B) The senior official on [in] the Exchange Help Desk [Control Room] or two Floor Officials may grant intra-day relief by widening or inactivating one or more of the applicable APR and/or ATD parameter settings [for one or more option series] in the interest of a fair and orderly market.

(I) Notification of intra-day relief will be announced as soon as reasonably practical via verbal message to the trading [crowd] floor, [printer] order management terminal message to TPH organizations on the trading floor, and electronic message to Trading Permit Holders that request to receive such messages. Such intra-day relief may not extend beyond the trade day on which it is granted, unless a determination to extend such relief is announced to Trading Permit Holders via Regulatory Circular. The Exchange will make and keep records to document all determinations to grant intra-day relief under this Rule, and shall maintain those records in accordance with Rule 17a-1 under the Exchange Act.

(II) The Exchange will periodically review determinations to grant intra-day relief for consistency with the interest of a fair and orderly market.

If an execution is suspended because the market width APR has not been met, the order will route via the order handling system pursuant to Rule 6.12 [be routed to PAR or, at the order entry firm's discretion, to the order entry firm's booth. If an order is not eligible to route to PAR, then the remaining balance will be cancelled].

If an execution is suspended because executing the remaining portion of an order would exceed the drill through ATD, then such remaining portion will be exposed pursuant to the HAL process in Rule 6.14A using the ATD as the exposure price. If a quantity remains at the conclusion of the HAL process or if the order has already been subject to the HAL process or if the order is not eligible for HAL, the remaining quantity will route via the order handling system pursuant to Rule 6.12 [be routed to PAR or, at the order entry firm's discretion, to the order entry firm's booth. If an order is not eligible to route to PAR, then the remaining balance will be cancelled].

(vi) No-Bid Series: Notwithstanding Rule 6.13(b)(v), if the CBOE Hybrid System receives during a trading session or has resting in the electronic book after the opening of a trading session a market order to sell in an option series when the national best bid in such series is zero:

(A) if the Exchange best offer in such series is less than or equal to \$0.50, then the CBOE Hybrid System will consider, for the remainder of the trading day, the market order as a limit order to sell with a limit price equal to the minimum trading increment applicable to such series and enter the order into the electronic book behind limit orders to sell at the minimum increment that are already resting in the book; or

(B) if the Exchange best offer in such series is greater than \$0.50, then the order entry firm has the discretion to have the market order to sell via the order handling system pursuant to Rule 6.12 [routed to a PAR Official, the PAR workstation of a TPH, or the order entry firm's booth. If the market order is not eligible to route to PAR, then it will be cancelled].

(c) No change.

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Rule 6.53C. Complex Orders on the Hybrid System

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(c) Complex Order Book

(i) Routing of Complex Orders: The Exchange will determine which classes and which complex order origin types (*i.e.*, non-broker-dealer public customer, broker-dealers that are not Market-Makers or specialists on an options exchange, and/or Market-Makers or specialists on an options exchange) are eligible for entry into the COB and whether such complex orders can route directly to the COB and/or from PAR to the COB. Complex orders not eligible to route to COB (either directly or from PAR to COB) will route via the order handling system pursuant to Rule 6.12 [to PAR or at the order entry firm's discretion to the order entry firm's booth].

(ii) – (iv) No change.

(d) No change.

... Interpretations and Policies:

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.06 Special Provisions Applicable to Stock-Option Orders: Stock-option orders may be executed against other stock-option orders through the COB and COA. Stock-option orders will not be legged against the individual component legs, except as provided in paragraph (d) below and leg orders will not be generated pursuant to paragraph (c)(iv) of this Rule for stock-option orders.

(a) Stock Component. Trading Permit Holders may only submit complex orders with a stock component if such orders comply with the Qualified Contingent Trade Exemption from Rule 611(a) of Regulation NMS. Trading Permit Holders submitting such complex orders represent that such orders comply with the Qualified Contingent Trade Exemption. To participate in stock-option order automated processing, a Trading Permit Holder must enter into a brokerage agreement with one or more designated dealers that are not affiliated with the Exchange. The stock portion of a stock-option order shall be electronically communicated by the Exchange to a designated broker-dealer for execution on behalf of the Trading Permit Holder. A stock-option order shall not be executed on the Hybrid System unless the stock leg is executable at the price(s) necessary to achieve the desired net price.

(b) Option Component. Notwithstanding the special priority provisions contained in paragraphs (c) and (d) below, the option leg(s) of a stock-option order shall not be executed on the Hybrid System (i) at a price that is inferior to the Exchange's best bid (offer) in the series or (ii) at the Exchange's best bid (offer) in that series if one or more public customer orders are resting at the best bid (offer) price on the Ebook in each of the component option series and the stock-option order could otherwise be executed in full (or in a permissible ratio). The option leg(s) of a stock-option order may be executed in a

one-cent increment, regardless of the minimum quoting increment applicable to that series.

(1) To the extent that a marketable stock-option order cannot automatically execute in full (or in a permissible ratio) when it is routed to COB or after being subject to COA, any part of the order that may be executed will be executed automatically and the part that cannot automatically execute will route via the order handling system pursuant to Rule 6.12 [be routed on a class-by-class basis to PAR or, at the order entry firm's discretion, to the order entry firm's booth. If an order is not eligible to route to PAR, then the remaining balance will be cancelled].

(2) To the extent that a stock-option order resting in COB becomes marketable against the derived net market, the full order will be subject to COA (and the processing described in paragraph (b)(1) of this Interpretation and Policy). The "derived net market" for a strategy will be calculated using the Exchange's best bid or offer in the individual option series leg(s) and the NBBO in the stock leg.

(c) Complex Order Book. Stock-option orders in the COB that are marketable against each other will automatically execute, subject to the condition noted in paragraph (b) above. The allocation of a stock-option order within the COB shall be pursuant to the rules of trading priority otherwise applicable to incoming electronic orders in the individual component legs. Orders and quotes may be submitted by market participants to trade against orders in the COB as set forth in subparagraph (c)(ii)(3) of this Rule, except that the N-second group timer under Rule 6.45A(c) or 6.45B(c), as applicable, shall not be in effect for stock-option orders.

(d) Complex Order Auction. Stock-Option Orders executed via COA shall trade in the sequence set forth in subparagraph (d)(v)(1)-(4) of this Rule except that subparagraph (d)(v)(1) will not be applicable and such execution will be subject to the condition noted in paragraph (b) of this Interpretation and Policy. Notwithstanding subparagraph (d)(vi), on a class-by-class basis, the Exchange may determine to route eligible market orders in the following manner: If at the conclusion of COA an eligible market order cannot be filled in whole or in a permissible ratio, then any remaining balance of the option leg(s) will route to the Hybrid System for processing as a simple market order(s) and any remaining balance of the stock leg will route to a designated dealer for processing as a market order. For purposes of this legging functionality, an "eligible market order" means a stock-option order that is within the designated size and order type parameters, determined by the Exchange on a class-by-class basis, and for which the NBBO is within designated size and price parameters, as determined by the Exchange for the individual leg. The designated NBBO price parameters will be determined based on a minimum bid price for sell orders. The Exchange may also determine on a class-by-class basis to limit the trading times within regular trading hours that the legging functionality will be available.

(e) Marking Requirement. If the stock leg of a stock-option order submitted to COB or COA is a sell order, then the stock leg must be marked "long," "short," or "short exempt" in compliance with Regulation SHO under the Exchange Act.

(f) Limit up-Limit Down State. When the underlying security on a Stock-option order is in a limit up-limit down state as defined in Rule 6.3A, such order will only execute if the calculated stock price is within the permissible Price Bands as defined in Rule 52.15. If the calculated price is not within the permissible Price Bands, the Stock-option order will be routed for manual handling.

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.08 Price Check Parameters: On a class-by-class basis, the Exchange may determine (and announce to the Trading Permit Holders via Regulatory Circular) which of the following price check parameters will apply to eligible complex orders. Paragraphs (b), (c) and (e) will not be applicable to stock-option orders. To the extent a price check parameter is applicable, the Exchange will [to] not automatically execute an eligible complex order that is:

(a) Market Width Parameters: An order that is marketable if (i) the width between the Exchange's best bid and best offer in any individual series leg is not within an acceptable price range or (ii) the width between the Exchange's best net priced bid and best net priced offer in the individual series legs comprising the complex order is not within an acceptable price range. For purpose of this paragraph (a):

(1) – (2) No change.

(3) A market order under this paragraph (a) will route via the order handling system pursuant to Rule 6.12 [on a class-by-class basis to PAR or, at the order entry firm's discretion, to the order entry firm's booth. If a market order is not eligible to route to PAR, then the remaining balance will be cancelled]. A marketable limit order under this paragraph (a) will be held in the Hybrid System, displayed in the COB if applicable, and not be eligible for automatic execution until the market width condition is resolved.

(4) – (5) No change.

(b) Credit-to-Debit Parameter: A market order that would be executed at a net debit price after receiving a partial execution at a net credit price. Such a complex order under this paragraph (b) will route via the order handling system pursuant to Rule 6.12 [on a class-by-class basis to PAR or, at the order entry firm's discretion, to the order entry firm's booth. If an order is not eligible to route to PAR, then the remaining balance will be cancelled].

(c) Same Expiration Strategy Parameters:

(1) – (2) No change.

(3) Such an incoming limit order under this paragraph (c) will not be accepted if these conditions exist when the order is routed to COB. To the extent the parameters under this paragraph (c) are triggered when an incoming market order is routed to COB or after an incoming market order is subject to COA, any part of the market order that

may be executed within an acceptable price range will be executed automatically and the part of the order that would execute at a net debit price will route via the order handling system pursuant to Rule 6.12 [on a class-by-class basis to PAR or, at the order entry firm's discretion, to the order entry firm's booth. If an order is not eligible to route to PAR, then the remaining balance will be cancelled].

(d) No change.

(e) Percentage Distance Parameter: An order that is marketable if, following COA, the execution would be at a price that is not within an acceptable percentage distance from the derived net price of the individual series legs that existed at the start of COA. The "acceptable percentage distance" will be a percentage determined by the Exchange on a class-by-class basis and it shall be not less than 3 percent. Such a complex order will route via the order handling system pursuant to Rule 6.12 [on a class-by-class basis to PAR, or, at the order entry firm's discretion, to the order entry firm's booth. If an order is not eligible to route to PAR, then the remaining balance will be cancelled].

(f) Stock-Option Derived Net Market Parameters: A stock-option order that is marketable if, following COA, the execution would not be within the acceptable derived net market for the strategy that existed at the start of COA.

(1) An "acceptable derived net market" for a strategy will be calculated using the Exchange's best bid or offer in the individual option series leg(s) and the NBBO in the stock leg plus/minus an acceptable tick distance. An "acceptable tick distance" will be determined by the Exchange on a class-by-class and premium basis.

(2) Such a stock-option order will route via the order handling system pursuant to Rule 6.12 [on a class-by-class basis to PAR or, at the order entry firm's discretion, to the order entry firm's booth. If an order is not eligible to route to PAR, then the remaining balance will be cancelled].

In classes where this price check parameter is available, it will also be available for COA responses under Rule 6.53C(d), AIM and Solicitation Auction Mechanism stock-option orders and responses under Rule 6.74A and 6.74B, and customer-to-customer immediate cross stock-option orders under Rule 6.74A.08. Under these provisions, such paired stock-option orders and responses will not be accepted except that, to the extent that only a paired contra-side order subject to an auction under Rule 6.74A or 6.74B exceeds this price check parameter, the contra-side order will not be accepted and the paired original Agency Order will not be accepted or, at the order entry firm's discretion, continue processing as an unpaired stock-option order. To the extent that a contra-side order or response is marketable, its price will be capped at the price inside the acceptable derived net market.

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.10 Execution of Complex Orders in Hybrid 3.0 Classes: For each class trading on the Hybrid 3.0 Platform, the Exchange may determine to not allow marketable complex orders entered into COB and/or COA to automatically execute against individual quotes residing in the EBook. The Exchange also may determine for each class trading on the Hybrid 3.0 Platform to not allow leg orders to be generated pursuant to paragraph (c)(iv) for complex orders resting in the COB. The allocation of such marketable complex orders against orders residing in the EBook and other complex orders shall be based on the best net price(s) and, at the same net price, multiple orders will be allocated as provided in paragraphs (c) and/or (d) in the Rule, as applicable, subject to the following:

(a) – (b) No change.

(c) To the extent that a marketable complex order cannot automatically execute in full (or in a permissible ratio) when it is routed to COB or after being subject to COA, any part of the order that may be executed will be executed automatically and the part of the order that cannot automatically execute will route via the order handling system pursuant to Rule 6.12 [be routed on a class-by-class basis to PAR or, at the order entry firm’s discretion, to the order entry firm’s booth. If an order is not eligible to route to PAR, then the remaining balance will be cancelled].

(d) No change.

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