

**EXHIBIT 5**

Below is the text of the proposed rule change. Proposed new language is underlined; proposed deletions are in brackets.<sup>1</sup>

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**0100. GENERAL STANDARDS**

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**0150. Application of Rules to Exempted Securities Except Municipal Securities**

(a) through (b) No Change.

(c) Unless otherwise indicated within a particular Rule, the following FINRA and NASD rules are applicable to transactions in, and business activities relating to, exempted securities, except municipal securities, conducted by members and associated persons: FINRA Rules 2010, 2020, 2060, 2150, 2261, 2269, 2320(g), 3220, 4120, 4130, 5160, 5210, 5220, 5230, 8110, 8120, 8210, 8310, 8311, 8312, 8320, 8330 and 9552; NASD Rules 2210, IM-2210-1, IM-2210-2, IM-2210-3, [2270, ]2310, IM-2310-2, IM-2310-3, 2320, 2330, IM-2330, 2340, 2430, [2450, ]2510, 2520, 2521, 2522, IM-2522, [2780, 2910, ]3010, 3020, 3030, 3040, 3050, 3070, 3110, IM-3110, 3140, 3230.

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**3100. SUPERVISORY RESPONSIBILITIES**

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**3160. Networking Arrangements Between Members and Financial Institutions**

**(a) Standards for Member Conduct**

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<sup>1</sup> This Exhibit 5 reflects amendments to the underlying rule text to FINRA Rule 6635, which has been renumbered as FINRA rule 6630, as amended pursuant to SR-FINRA-2010-003. See Securities Exchange Act Release No. 61979 (April 23, 2010), 75 FR 23316 (May 3, 2010) (SEC Order Approving SR-FINRA-2010-003).

Except as otherwise provided in this Rule, a member that is a party to a networking arrangement under which the member conducts broker-dealer services on or off the premises of a financial institution is subject to the following requirements:

(1) No Change.

**(2) Networking Agreements**

(A) Networking arrangements between a member and a financial institution shall be governed by a written agreement that sets forth the responsibilities of the parties and the compensation arrangements and include all broker-dealer obligations, as applicable, set forth in Rule 701 of SEC Regulation R. Independent of their contractual obligations, members shall comply with all broker-dealer obligations, as applicable, under Rule 701 of SEC Regulation R.

(B) No Change.

(3) through (5) No Change.

(b) No Change.

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**6600. OTC REPORTING FACILITY**

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**6630. Applicability of FINRA Rules to Securities Previously Designated as PORTAL Securities**

(a) The following are specifically applicable to transactions and business activities relating to securities that, prior to October 26, 2009, had been designated by The Nasdaq Stock Market LLC for inclusion in the PORTAL Market (“PORTAL securities”):

(1) NASD Rules 2230, [2270, ]2310, 2440, 3370, and FINRA Rules 0130, 0140, 2010, 2020, 2251, 2261, 2262, 2269, 8210;

(2) through (3) No Change.

(b) through (c) No Change.

(d) The following are not applicable to transactions and business activities relating to PORTAL securities:

(1) NASD Rules [2450, ]2520, 2730, 2740, 2750, 2830, 3210, and FINRA Rules 2310, 2320, 2360, 4560, 5110, 5130.

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## **9200. DISCIPLINARY PROCEEDINGS**

### **9210. Complaint and Answer**

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### **9217. Violations Appropriate for Disposition Under Plan Pursuant to SEA Rule 19d-1(c)(2)**

Any member of FINRA that is also a member of the New York Stock Exchange LLC ("NYSE") ("Dual Member") (including any persons affiliated with such member) may be subject to a fine under Rule 9216(b) with respect to any rule or By-Law provision listed in this Rule that applies to such member or person. However, any Dual Member that was not also a member of NASD as of July 30, 2007 and that does not engage in any activities that otherwise would require it to be a FINRA member (and its affiliated persons that are not otherwise subject to NASD rules) shall only be subject to a fine under Rule 9216(b) with respect to the following rules or By-Law provisions listed in this Rule: any FINRA By-Law or Schedule to the By-Laws, FINRA rule, SEA rule, or NYSE rule.

Any member of FINRA that is not also a member of the NYSE (and its associated persons that are not otherwise subject to NYSE rules) may be subject to a fine under Rule 9216(b) with respect to any rule or By-Laws provision listed in this Rule, with the exception of the NYSE rules.

- Article IV of the FINRA By-Laws — Failure to timely submit amendments to Form BD.
- Article V of the FINRA By-Laws — Failure to timely submit amendments to Form U4.
- Article V of the FINRA By-Laws — Failure to timely submit amendments to Form U5.
- Rule 2220 Options Communications.
- Rule 2360(b)(3) and (b)(4) — Failure to comply with options position and exercise limits.
- Rule 2360(b)(23) — Failure to comply with contrary exercise advice procedures.
- Rule 4521(d) — Failure to submit reports of cash and margin account balances.
- Rule 4560 — Failure to timely file reports of short positions on Form NS-1.
- Rules 6282, 6380A, 6550, 6622, 6730, 7130, 7160, 7230A, and 7260A — Transaction reporting in equity and debt securities.
- Rules 7440 and 7450 — Failure to submit data in accordance with the Order Audit Trail System ("OATS").
- Rules 8211 and 8213 — Failure to submit trading data as requested.
- NASD Rule 1120 — Failure to comply with the Firm Element of the continuing education requirements.
- NASD Rules 2210, 2211, and IM-2210-1, -2210-2, -2210-3, -2210-4, -2210-5, -2210-7, and -2210-8 — Communications with the public.

- NASD Rule 3010(b) — Failure to timely file reports pursuant to the Taping Rule.
- NASD Rule 3070 — Failure to timely file reports.
- NASD Rule 3110 — Failure to keep and preserve books, accounts, records,

memoranda, and correspondence in conformance with all applicable laws, rules, regulations and statements of policy promulgated thereunder, and with NASD rules.

- NASD Rule 11870 — Failure to abide by Customer Account Transfer Contracts.
- Failure to provide or update contact information as required by FINRA or NASD rules.
- SEA Rule 17a-5 — Failure to timely file FOCUS reports and annual audit reports.
- SEA Rule 17a-10 — Failure to timely file Schedule I.
- Rule 602(b)(5) of SEC Regulation NMS — Failure to properly update published

quotations in certain Electronic Communication Networks ("ECNs").

- Rule 604 of SEC Regulation NMS — Failure to properly display limit orders.
- MSRB Rule A-14 — Failure to timely pay annual fee.
- MSRB Rule G-12 — Failure to abide by uniform practice rules.
- MSRB Rule G-14 — Failure to submit reports.
- MSRB Rule G-36 — Failure to timely submit reports.
- MSRB Rule G-37 — Failure to timely submit reports for political contributions.
- MSRB Rule G-38 — Failure to timely submit reports detailing consultant activities.
- NYSE Rules 312(a), (b) & (c), 313, 345.12, 345.17, 346(c), 351, and 440F & G —

Reporting rule violations.

- NYSE Rules 312(i), 342(c), 342.10, 346(e) and (f), and 382(a) — Failure to obtain

approval rule violations.

- NYSE Rules 342(b), (d) & 342.13, 311(b)(5), and 344 — Failure of a member organization to have individuals responsible and qualified for the positions of Financial Principal, Operations Principal, Compliance Official, Branch Office Manager and Supervisory Analyst.

- NYSE Rule 343 — Requirements relating to member organization office sharing arrangements.

- NYSE Rule 345(a) — Failure of a member organization to have individuals responsible and qualified for the positions of Securities Lending Supervisor and Securities Trader Supervisor.

- NYSE Rules 345.11, 410, 432(a), 440, and 472(c) — Record retention rule violations.

- NYSE Rule 346(b) — Failure to obtain employer's prior written consent for engaging in an outside activity.

- NYSE Rule 387 — Requirements for customer COD/POD transactions.

- NYSE Rule 401A — Failure to acknowledge customer complaint within 15 business days.

- NYSE Rule 407 — Requirements for transactions of employees of the Exchange, members or member organizations.

- NYSE Rule 407A — Reporting and notification requirements for members.

- NYSE Rule 408(a) — Requirement that written authorization be obtained for discretionary power in a customer's account.

- [• NYSE Rule 411(b) — Requirements to bundle multiple odd-lot orders in the same stock, which aggregate to 100 shares or more, to aggregate the orders into round-lot orders.]

- NYSE Rule 416A — Failure to promptly provide or promptly update required membership profile information through the Electronic Filing Platform ("EFP"), or failure to electronically certify that required membership profile information is complete and accurate.

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