

## **Exhibit 5**

Below is the text of the proposed rule change. Proposed new language is underlined; proposed deletions are in brackets.

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### **8000. INVESTIGATIONS AND SANCTIONS**

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### **8300. SANCTIONS**

#### **8310. Sanctions for Violation of the Rules**

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#### **8313. Release of Disciplinary Complaints, Decisions and Other Information**

[(a) FINRA shall, in response to a request, release to the requesting party a copy of any identified disciplinary complaint or disciplinary decision issued by FINRA or any subsidiary or Committee thereof; provided, however, that each copy of:]

[(1) a disciplinary complaint shall be accompanied by the following statement: "The issuance of a disciplinary complaint represents the initiation of a formal proceeding by FINRA in which findings as to the allegations in the complaint have not been made and does not represent a decision as to any of the allegations contained in the complaint. Because this complaint is unadjudicated, you may wish to contact the respondent before drawing any conclusions regarding the allegations in the complaint.";]

[(2) a disciplinary decision that is released prior to the expiration of the time period provided under the Rule 9000 Series for appeal or call for review within FINRA or while such an appeal or call for review is pending, shall be

accompanied by a statement that the findings and sanctions imposed in the decision may be increased, decreased, modified, or reversed by FINRA;]

[(3) a final decision of FINRA that is released prior to the time period provided under the Exchange Act for appeal to the SEC or while such an appeal is pending, shall be accompanied by a statement that the findings and sanctions of FINRA are subject to review and modification by the SEC; and]

[(4) a final decision of FINRA that is released after the decision is appealed to the SEC shall be accompanied by a statement as to whether the effectiveness of the sanctions has been stayed pending the outcome of proceedings before the SEC.]

**(a) General Standards**

(1) FINRA shall release to the public a copy of, and at FINRA's discretion information with respect to, any disciplinary complaint or disciplinary decision issued by FINRA, as defined in paragraph (e) of this Rule.

(2) FINRA shall release to the public a copy of, and at FINRA's discretion information with respect to, any statutory disqualification decision, notification, or notice issued by FINRA pursuant to the Rule 9520 Series that will be filed with the SEC and any temporary cease and desist order or decision issued by FINRA pursuant to the Rule 9800 Series.

(3) FINRA shall release to the public information with respect to any suspension, cancellation, expulsion, or bar that constitutes final FINRA action imposed pursuant to Rules 9552, 9553, 9554, 9555, 9556, and 9558, and information with respect to any suspension imposed pursuant to Rule 9557.

FINRA shall release to the public a copy of, and information with respect to, any decision issued pursuant to Rule 9559 that constitutes final FINRA action.

FINRA shall release to the public information with respect to the summary suspension or expulsion of a member or the summary revocation of the registration of a person associated with a member for a failure to pay fines, other monetary sanctions, or costs pursuant to Rule 8320.

(4) FINRA shall release to the public a copy of, and at FINRA's discretion information with respect to, any decision issued by FINRA pursuant to NASD Rule 1015 and NASD Rule 1016. Copies of, and information with respect to, such decisions shall be released to the public in redacted form; provided, however, in its discretion, the National Adjudicatory Council or the FINRA Board may determine to release such decisions and information in unredacted form.

(5) FINRA may release to the public a copy of, and information with respect to, any decision or notice issued pursuant to Rule 6490, the Rule 9600 Series, the Rule 9700 Series, and any other decision appealable to the SEC under Exchange Act Section 19(d).

(6) FINRA may release to the public a copy of, and information with respect to, any complaint, decision, order, notification, or notice issued under FINRA rules, where the release of such information is deemed by FINRA's Chief Executive Officer (or such other senior officer as the Chief Executive Officer may designate) to be in the public interest, in such format as he or she finds appropriate.

[(b)(1) FINRA shall release to the public information with respect to any disciplinary complaint initiated by the Department of Enforcement or the Department of Market Regulation of FINRA, the FINRA Regulation Board of Directors, or the FINRA Board of Governors containing an allegation of a violation of a designated statute, rule or regulation of the SEC, FINRA, or Municipal Securities Rulemaking Board, as determined by the FINRA Regulation Board of Directors (a "Designated Rule"); and may also release such information with respect to any disciplinary complaint or group of disciplinary complaints that involve a significant policy or enforcement determination where the release of information is deemed by FINRA's Chief Executive Officer or such other senior officer as the Chief Executive Officer may designate to be in the public interest.]

[(2) Information released to the public pursuant to paragraph (b)(1) shall be accompanied by the statement required under paragraph (a)(1).]

**(b) Release Specifications**

(1) Copies of, and information with respect to, any disciplinary complaint released to the public pursuant to paragraph (a) of this Rule shall indicate that a disciplinary complaint represents the initiation of a formal proceeding by FINRA in which findings as to the allegations in the complaint have not been made and does not represent a decision as to any of the allegations contained in the complaint.

(2) Copies of, and information with respect to, any disciplinary decision or other decision, order, notification, or notice released to the public pursuant to paragraph (a) of this Rule prior to the expiration of the time period provided for

an appeal or call for review as permitted under FINRA rules or the Exchange Act, or while such an appeal or call for review is pending, shall indicate that the findings and sanctions imposed therein are subject to review and modification by FINRA or the SEC.

[(c)(1) FINRA shall release to the public information with respect to any disciplinary decision issued pursuant to the Rule 9000 Series imposing a suspension, cancellation or expulsion of a member; or suspension or revocation of the registration of a person associated with a member; or suspension or barring of a member or person associated with a member from association with all members; or imposition of monetary sanctions of \$10,000 or more upon a member or person associated with a member; or containing an allegation of a violation of a Designated Rule; and may also release such information with respect to any disciplinary decision or group of decisions that involve a significant policy or enforcement determination where the release of information is deemed by FINRA's Chief Executive Officer or such other senior officer as the Chief Executive Officer may designate to be in the public interest. FINRA also may release to the public information with respect to any decision issued pursuant to the Rule 9550 Series imposing a suspension or cancellation of the member or a suspension or bar of the association of a person with a member, unless FINRA determines otherwise. FINRA may, in its discretion, determine to waive the requirement to release information with respect to a disciplinary or other decision under those extraordinary circumstances where the release of such information would violate fundamental notions of fairness or work an injustice. FINRA also

shall release to the public information with respect to any temporary cease and desist order issued pursuant to the Rule 9800 Series. FINRA may release to the public information on any disciplinary or other decision issued pursuant to the Rule 9000 Series, not specifically enumerated in this paragraph, regardless of sanctions imposed, so long as the names of the parties and other identifying information is redacted.]

[(A) FINRA shall release to the public, in unredacted form, information with respect to any disciplinary decision issued pursuant to the Rule 9300 Series that does not meet one or more of the criteria in Rule 8313(c)(1) for the release of information to the public, provided that the underlying decision issued pursuant to the Rule 9200 Series meets one or more of the criteria in Rule 8313(c)(1) for the release of information to the public, and information regarding such decision has been released to the public in unredacted form.]

[(B) In the event there is more than one respondent in a disciplinary decision issued pursuant to the Rule 9000 Series, and sanctions imposed on one or more, but not all, of the respondents meets one or more of the criteria in Rule 8313(c)(1) for the release of information to the public, FINRA shall release to the public, in unredacted form, information with respect to the respondent(s) who meet such criteria, and may release to the public, in redacted form, information with respect to the respondent(s) who do not meet such criteria. Notwithstanding the foregoing, FINRA shall release to the public, in

unredacted form, information with respect to any respondent in a disciplinary decision issued pursuant to the Rule 9300 Series if the sanctions imposed on such respondent in the underlying decision issued pursuant to the Rule 9200 Series meet one or more of the criteria for release of information to the public, and information with respect to that respondent has been released in unredacted form.]

[(2) Information released to the public pursuant to paragraph (c)(1) shall be accompanied by a statement to the extent required for that type of information under paragraphs (a)(2) through (4).]

**(c) Discretion to Redact Certain Information or Waive Publication**

(1) Notwithstanding paragraph (a) of this Rule, FINRA reserves the right to redact, on a case-by-case basis, information that contains confidential customer information, including customer identities, or information that raises significant identity theft, personal safety, or privacy concerns that are not outweighed by investor protection concerns.

(2) Notwithstanding paragraph (a) of this Rule, FINRA may determine, in its discretion, to waive the requirement to release a copy of, or information with respect to, any disciplinary complaint, disciplinary decision or other decision, order, notification, or notice under those extraordinary circumstances where the release of such information would violate fundamental notions of fairness or work an injustice.

[(d) If a decision issued pursuant to the Rule 9000 Series other than by the National Adjudicatory Council is not appealed to or called for review by the National

Adjudicatory Council, the decision shall become effective on a date set by FINRA but not before the expiration of 45 days after the date of decision.]

**(d) Notice of Appeals of FINRA Decisions to the SEC**

FINRA shall provide notice to the public if a disciplinary decision of FINRA is appealed to the SEC and the notice shall state whether the effectiveness of the decision has been stayed pending the outcome of proceedings before the SEC.

[e) Notwithstanding paragraph (d), expulsions and bars imposed pursuant to the provisions of Rules 9216 and 9270 shall become effective upon approval or acceptance by the National Adjudicatory Council, and information regarding any sanctions imposed pursuant to those Rules may be released to the public pursuant to paragraph (c) immediately upon such approval or acceptance.]

**(e) Definitions**

(1) For the purpose of this Rule, the term “disciplinary complaint” shall mean any complaint issued pursuant to the Rule 9200 Series.

(2) For the purpose of this Rule, the term “disciplinary decision” shall mean any decision issued pursuant to the Rule 9000 Series, including, decisions issued by the Office of Hearing Officers, the National Adjudicatory Council or the FINRA Board, orders accepting offers of settlement, and Letters of Acceptance, Waiver and Consent; provided, however, such term does not include decisions issued pursuant to the Rule 9550 Series, Rule 9600 Series, Rule 9700 Series, or Rule 9800 Series, or decisions, notifications, or notices issued pursuant to the Rule 9520 Series, which are addressed by paragraphs (a)(2), (a)(3) and

(a)(5) of this Rule. Minor rule violation plan letters issued pursuant to Rules 9216 and 9217 are not subject to this Rule.

[(f) If a decision issued pursuant to the Rule 9000 Series is called for review by the FINRA Board of Governors, the decision shall be stayed pending a final determination and decision by the Board.]

[(g) If a decision of FINRA imposing monetary sanctions of \$10,000 or more or a penalty of expulsion, revocation, suspension and/or barring of a member from being associated with all members is appealed to the SEC, notice thereof shall be given to the membership and to the press as soon as possible after receipt by FINRA of notice from the SEC of such appeal and FINRA's notice shall state whether the effectiveness of the Board's decision has been stayed pending the outcome of proceedings before the SEC.]

[(h) In the event an appeal to the courts is filed from a decision by the SEC in a case previously appealed to it from a decision of FINRA, involving the imposition of monetary sanctions of \$10,000 or more or a penalty of expulsion, revocation, suspension and/or barring of a member from being associated with all members, notice thereof shall be given to the membership as soon as possible after receipt by FINRA of a formal notice of appeal. Such notice shall include a statement whether the order of the SEC has been stayed.]

[(i) Any order issued by the SEC of revocation or suspension of a member's broker-dealer registration with the SEC; or the suspension or expulsion of a member from FINRA; or the suspension or barring of a member or person associated with a member from association with all broker-dealers or membership; or the imposition of monetary sanctions of \$10,000 or more shall be released to the public through a notice containing

the effective date thereof sent as soon as possible after receipt by FINRA of the order of the SEC.]

[(j) Cancellations of membership or registration pursuant to the FINRA By-Laws and rules shall be released to the public as soon after the effective date of the cancellation as possible.]

[(k) Releases to the public referred to in paragraphs (b) and (c) above shall identify the FINRA rules and By-Laws or the SEC rules violated, and shall describe the conduct constituting such violation. Releases may also identify the member with which an individual was associated at the time the violations occurred if such identification is determined by FINRA to be in the public interest.]

[(l) FINRA shall release to the public, in the form issued by the National Adjudicatory Council, information with respect to any decision issued by the National Adjudicatory Council pursuant to NASD Rule 1015. In its discretion, the National Adjudicatory Council may have redacted certain information from such decisions prior to their issuance.]

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**9000. CODE OF PROCEDURE**

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**9200. DISCIPLINARY PROCEEDINGS**

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**9260. Hearing and Decision**

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**9268. Decision of Hearing Panel or Extended Hearing Panel**

(a) No Change.

**(b) Contents of Decision**

The decision shall include:

(1) through (5) No Change.

(6) a statement describing any sanction imposed, the reasons therefor, and the date upon which such sanction shall become effective. Unless otherwise provided in the decision, the sanction(s) shall become effective [on a date to be determined by FINRA staff] pursuant to paragraph (f) of this Rule.

(c) through (e) No Change.

**(f) Effectiveness of Sanctions**

Unless otherwise provided in the majority decision issued under paragraph (a) of this Rule:

(1) a sanction (other than a bar or an expulsion) specified in a decision constituting final disciplinary action of FINRA for purposes of SEA Rule 19d-1(c)(1) shall become effective on a date to be determined by FINRA; and

(2) a bar or an expulsion specified in a decision shall become effective immediately upon the decision becoming the final disciplinary action of FINRA for purposes of SEA Rule 19d-1(c)(1).

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**9500. OTHER PROCEEDINGS**

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**9550. Expedited Proceedings**

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**9552. Failure to Provide Information or Keep Information Current**

(a) through (h) No Change.

**[(i) Notice to Membership]**

[FINRA shall provide notice of any final FINRA action taken under this Rule in the next notice of Disciplinary and Other FINRA Actions.]

**9553. Failure to Pay FINRA Dues, Fees and Other Charges**

(a) through (g) No Change.

**[(h) Notice to Membership]**

[FINRA shall provide notice of any final FINRA action taken pursuant to this Rule in the next notice of Disciplinary and Other FINRA Actions.]

**9554. Failure to Comply with an Arbitration Award or Related Settlement or an Order of Restitution or Settlement Providing for Restitution**

(a) through (g) No Change.

**[(h) Notice to Membership]**

[FINRA shall provide notice of any final FINRA action taken pursuant to this Rule in the next notice of Disciplinary and Other FINRA Actions.]

**9555. Failure to Meet the Eligibility or Qualification Standards or Prerequisites for Access to Services**

(a) through (g) No Change.

**[(h) Notice to Membership]**

[FINRA shall provide notice of any final FINRA action taken pursuant to this Rule in the next notice of Disciplinary and Other FINRA Actions.]

**9556. Failure to Comply with Temporary and Permanent Cease and Desist Orders**

(a) through (g) No Change.

**[(h) Notice to Membership]**

[FINRA shall provide notice of any final FINRA action taken pursuant to this Rule in the next notice of Disciplinary and Other FINRA Actions.]

**9557. Procedures for Regulating Activities Under Rules 4110, 4120 and 4130**

**Regarding a Member Experiencing Financial or Operational Difficulties**

(a) through (h) No Change.

**[(i) Notice to Membership]**

[FINRA shall provide notice of any suspension pursuant to this Rule in the next notice of Disciplinary and Other FINRA Actions.]

**9558. Summary Proceedings for Actions Authorized by Section 15A(h)(3) of the**

**Exchange Act**

(a) through (g) No Change.

**[(h) Notice to Membership]**

[FINRA shall provide notice of any final FINRA action taken pursuant to this Rule in the next notice of Disciplinary and Other FINRA Actions.]

**9559. Hearing Procedures for Expedited Proceedings Under the Rule 9550 Series**

(a) through (q) No Change.

**[(r) Notice to Membership]**

[FINRA shall provide notice of any final FINRA action in the next notice of Disciplinary and Other FINRA Actions.]

**[(s)r] Application to SEC for Review**

The right to have any action pursuant to this Rule reviewed by the SEC is governed by Section 19 of the Exchange Act. The filing of an application for review by the SEC shall not stay the effectiveness of final FINRA action, unless the SEC otherwise orders.

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## **9600. PROCEDURES FOR EXEMPTIONS**

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### **9620. Decision**

After considering an application, FINRA staff shall issue a written decision setting forth its findings and conclusions. The decision shall be served on the Applicant pursuant to Rules 9132 and 9134. After the decision is served on the Applicant, the application and decision [shall] may be publicly available [unless FINRA staff determines that the Applicant has shown good cause for treating the application or decision as confidential in whole or in part].

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