

EXHIBIT 5

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

ISE MERCURY, LLC RULES

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Rule 705. Limitation of Liability

(a) - (c) No change.

(d) Notwithstanding paragraph (a) above, [and subject to the express limits set forth below, the Exchange may compensate Members for losses resulting directly from the malfunction of the Exchange's physical equipment, devices and/or programming]the Exchange, subject to the express limits set forth below, may compensate users of the Exchange for losses directly resulting from the actual failure of the System, or any other Exchange quotation, transaction reporting, execution, order routing or other systems or facility to correctly process an order, quote, message, or other data, provided that the Exchange has acknowledged receipt of the order, quote, message, or data.

(1) For the aggregate of all claims made by all market participants related to the use of the Exchange [on a single trading day]during a single calendar month, the Exchange's payments shall not exceed [\$250,000]the larger of \$500,000, or the amount of the recovery obtained by the Exchange under any applicable insurance policy.

(2) In the event that all of the claims arising out of the use of the Exchange cannot be fully satisfied because in the aggregate they exceed the limitations provided for in this Rule, then the maximum permitted amount will be proportionally allocated among all such claims arising [on a single trading day]during a single calendar month.

(3) All claims for compensation pursuant to this Rule shall be in writing and must be submitted no later than [the opening of trading on the next business day following the day on which the use of the Exchange gave rise to such claims. Once in receipt of a claim, the Exchange will verify that: (i) a valid order was accepted into the Exchange's systems; and (ii) an Exchange system failure occurred during the execution or handling of that order]12:00 P.M. ET on the next business day following the day on which the use of the Exchange gave rise to such claims. Nothing in this rule shall obligate the Exchange to seek recovery under any applicable insurance policy.

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