

EXHIBIT 5

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

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[3330. Payment Designed to Influence Market Prices, Other than Paid Advertising
No member shall, directly or indirectly, give, permit to be given, or offer to give, anything of value to any person for the purpose of influencing or rewarding the action of such person in connection with the publication or circulation in any newspaper, investment service, or similar publication, of any matter which has, or is intended to have, an effect upon the market price of any security, provided that this Rule shall not be construed to apply to matter which is clearly distinguishable as paid advertising.]

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IM-5900-6. Waiver of Fees for Companies Emerging from Bankruptcy

No Change.

5000A. NASDAQ SUPPLEMENTARY CONDUCT RULES**5230A. Payments Involving Publications that Influence the Market Price of a Security**

(a) Except as provided in paragraph (b), no member shall, directly or indirectly, give, permit to be given, or offer to give, anything of value to any person for the purpose of influencing or rewarding the action of such person in connection with the publication or circulation in any electronic or other public media, including any investment service or similar publication, Web site, newspaper, magazine or other periodical, radio, or television program of any matter that has, or is intended to have, an effect upon the market price of any security.

(b) The prohibitions in paragraph (a) shall not apply to compensation paid to a person in connection with the publication or circulation of:

- (1) a communication that is clearly distinguishable as paid advertising;
- (2) a communication that discloses the receipt of compensation and the amount thereof in accordance with Section 17(b) of the Securities Act; or
- (3) a research report, as that term is defined in NASD Rule 2711.

FINRA is in the process of consolidating certain NASD rules into a new FINRA rulebook. If the provisions of NASD Rule 2711 are transferred into the FINRA rulebook, then Rule 2711 shall be construed to require Exchange members to comply with the FINRA rule corresponding to NASD Rule 2711 (regardless of whether such rule is renumbered or amended) as if such rule were part of the Rules of the Exchange.

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9810. Initiation of Proceeding

(a) Department of Enforcement or Department of Market Regulation

With the prior written authorization of the FINRA's Chairman and CEO or FINRA's Senior Executive Vice President for Regulatory Policy and Programs, the Department of Enforcement or the Department of Market Regulation may initiate a temporary cease and desist proceeding with respect to alleged violations of Section 10(b) of the Securities Exchange Act of 1934 and SEC Rule 10b-5 thereunder; SEC Rules 15g-1 through 15g-9; Nasdaq Rule 2110 (if the alleged violation is unauthorized trading, or misuse or conversion of customer assets, or based on violations of Section 17(a) of the Securities Act of 1933); Nasdaq Rule 2120; or Nasdaq Rule [2330]2150 (if the alleged violation is misuse or conversion of customer assets). The Department of Enforcement or the Department of Market Regulation shall initiate the proceeding by serving a notice on a member or associated person (hereinafter "Respondent") and filing a copy thereof with the Office of Hearing Officers. The Department of Enforcement or the Department of Market Regulation shall serve the notice by personal service, overnight commercial courier, or facsimile. If service is made by facsimile, the Department of Enforcement or the Department of Market Regulation shall send an additional copy of the notice by overnight commercial courier. The notice shall be effective upon service.

(b) – (c) No Change.

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