

Additions underlined
Deletions [bracketed]

EXHIBIT 5

RULES OF THE NYSE AMERICAN LLC

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Trading of Options Contracts

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Section 9. Miscellaneous Provisions Applicable to Options

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Rule 991. Options Communications

(a) Definitions

For purposes of this Rule and any interpretation thereof:

(1) "Options communications" consist of:

(A) "Correspondence" means any written (including electronic) communication that is distributed or made available to 25 or fewer retail investors within any 30 calendar-day period.

(B) "Institutional Communication" is defined in FINRA Rule 2210(a)(3).

(C) "Retail Communication" means any written (including electronic) communication that is distributed or made available to more than 25 retail investors within any 30 calendar-day period including worksheet templates.

[(A) "Advertisement". Any material, other than an independently prepared reprint and institutional sales material, that is published, or used in any electronic or other public media, including any Web site, newspaper, magazine or other periodical, radio, television, telephone or tape recording, videotape display, signs or billboards, motion pictures, or telephone directories (other than routine listings).

(B) "Sales literature". Any written or electronic communication, other than an advertisement, independently prepared reprint, institutional sales material and correspondence, that is generally distributed or made generally available to customers or the public, including circulars, research reports, performance

reports or summaries, form letters, telemarketing scripts, seminar texts, reprints (that are not independently prepared reprints) or excerpts of any other advertisement, sales literature or published article, and press releases concerning a member's products or services.

(C) "Correspondence". consists of any written letter or electronic mail message and any market letter distributed by a member to:

- (i) one or more of its existing retail customers; and
- (ii) fewer than 25 prospective retail customers within any 30 calendar-day period.

(D) "Institutional sales material". consists of any communication that is distributed or made available only to institutional investors.

(E) "Public appearance". Any participation in a seminar, forum (including an interactive electronic forum), radio, television or print media interview, or other public speaking activity, or the writing of a print media article, concerning options.

(F) "Independently prepared reprint".

(i) Any reprint or excerpt of any article issued by a publisher, provided that:

- (a) the publisher is not an affiliate of the member using the reprint or any underwriter or issuer of a security mentioned in the reprint or excerpt and that the member is promoting;
- (b) neither the member using the reprint or excerpt nor any underwriter or issuer of a security mentioned in the reprint or excerpt has commissioned the reprinted or excerpted article; and
- (c) the member using the reprint or excerpt has not materially altered its contents except as necessary to make the reprint or excerpt consistent with applicable regulatory standards or to correct factual errors;

(ii) Any report concerning an investment company registered under the Investment Company Act of 1940, provided that:

- (a) the report is prepared by an entity that is independent of the investment company, its affiliates, and the member using the report (the "research firm");

(b) the report's contents have not been materially altered by the member using the report except as necessary to make the report consistent with applicable regulatory standards or to correct factual errors;

(c) the research firm prepares and distributes reports based on similar research with respect to a substantial number of investment companies;

(d) the research firm updates and distributes reports based on its research of the investment company with reasonable regularity in the normal course of the research firm's business;

(e) neither the investment company, its affiliates nor the member using the research report has commissioned the research used by the research firm in preparing the report; and

(f) if a customized report was prepared at the request of the investment company, its affiliate or a member, then the report includes only information that the research firm has already compiled and published in another report, and does not omit information in that report necessary to make the customized report fair and balanced.]

- (2) “Retail investor” means any person other than an institutional investor, regardless of whether the person has an account with an ATP Holder.["Existing retail customer" means any person for whom the member or a clearing broker or dealer on behalf of the member carries an account, or who has an account with any registered investment company for which the member serves as principal underwriter, and who is not an institutional investor. "Prospective Retail Customer" means any person who has not opened such an account and is not an institutional investor.]

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(b) Approval by a Registered Options Principal and Recordkeeping

- (1) Retail Communications. All Retail Communications (except completed worksheets) issued by an ATP Holder concerning options shall be approved in advance by a Registered Options Principal designated by the ATP Holder's written supervisory procedures.

- (2) Correspondence. Correspondence need not be approved by a Registered Options Principal prior to use. All correspondence is subject to the supervision and review requirements of FINRA Rules 3110(b) and 3110.06 through .09.

(3) Institutional Communications. Each ATP Holder shall establish written procedures that are appropriate to its business, size, structure, and customers for the review by a Registered Options Principal of Institutional Communications used by the ATP Holder and its registered representatives as described in FINRA Rule 2210(b)(3).

[(1) Advertisements, Sales Literature, and Independently Prepared Reprints. All advertisements, sales literature (except completed worksheets), and independently prepared reprints issued by a member concerning options shall be approved in advance by a Registered Options Principal designated by the member's written supervisory procedures.

(2) Correspondence. Correspondence need not be approved by a Registered Options Principal prior to use, unless such correspondence is distributed to 25 or more existing retail customers within any 30 calendar-day period and makes any financial or investment recommendation or otherwise promotes a product or service of the member. All correspondence shall be subject to the following supervision and review requirements:

(A) Supervision of Registered Representatives

Each member shall establish procedures for the review and endorsement by a registered principal in writing, on an internal record, of all transactions and for the review by a registered principal of incoming and outgoing written and electronic correspondence of its registered representatives with the public relating to the investment banking or securities business of such member. Such procedures should be in writing and be designed to reasonably supervise each registered representative. Evidence that these supervisory procedures have been implemented and carried out must be maintained and made available to the Association upon request.

(B) Review of Correspondence

Each member shall develop written procedures that are appropriate to its business, size, structure, and customers for the review of incoming and outgoing written (i.e., non-electronic) and electronic correspondence with the public relating to its investment banking or securities business, including procedures to review incoming, written correspondence directed to registered representatives and related to the member's investment banking or securities business to properly identify and handle customer complaints and to ensure that customer funds and securities are handled in accordance with firm

procedures. Where such procedures for the review of correspondence do not require review of all correspondence prior to use or distribution, they must include provision for the education and training of associated persons as to the firm's procedures governing correspondence; documentation of such education and training; and surveillance and follow-up to ensure that such procedures are implemented and adhered to.

(C) Retention of Correspondence

Each member shall retain correspondence of registered representatives relating to its investment banking or securities business in accordance with Rule 324. The names of the persons who prepared outgoing correspondence and who reviewed the correspondence shall be ascertainable from the retained records and the retained records shall be readily available to the Association, upon request.

- (3) Institutional Sales Material. Each member shall establish written procedures that are appropriate to its business, size, structure, and customers for the review by a Registered Options Principal of institutional sales material used by the member and its registered representatives. Such procedures should be in writing and be designed to reasonably supervise each registered representative. Where such procedures do not require review of all institutional sales material prior to use or distribution, they must include provision for the education and training of associated persons as to the firm's procedures governing institutional sales material, documentation of such education and training, and surveillance and follow-up to ensure that such procedures are implemented and adhered to. Evidence that these supervisory procedures have been implemented and carried out must be maintained and made available upon request.]
- (4) Copies of the options communications shall be retained by the ATP Holder[member] in accordance with SEC Rule 17a-4 of the Act. The names of the persons who prepared the options communications, the names of the persons who approved the options communications and, the source of any recommendations contained therein, shall be retained by the ATP Holder[member] and be kept in the form and for the time period required for options communications by SEC Rule 17a-4 of the Act.

(c) Exchange Approval Requirements and Review Procedures

(1) In addition to the approval required by paragraph (b) of this Rule, all Retail Communications[advertisements, sales literature, and independently prepared reprints] issued by an ATP Holder[a member] concerning standardized options used prior to delivery of the applicable current options disclosure document or prospectus shall be submitted to the [designated] Advertising Regulation Department of FINRA (the "Department") at least ten calendar days prior to use (or such shorter period as the Department may allow in particular instances) for approval and, if changed or expressly disapproved by the Department, shall be withheld from circulation until any changes specified by the Department have been made or, in the event of disapproval, until such options communication has been resubmitted for, and has received, Department approval.

(2)(A) Notwithstanding the foregoing provision, the Department, upon review of an ATP Holder's[a member's] options communications, and after determining that the ATP Holder[member] has departed from the standards of this Rule, may require that such ATP Holder[member] file some or all options communications or the portions of such ATP Holder's[member's] communications that are related to options with the Department, at least ten calendar days prior to use.

(B) The Department shall notify the ATP Holder[member] in writing of the types of options communications to be filed and the length of time such requirement is to be in effect. The requirement shall not exceed one year and shall not take effect until 21 calendar days after service of the written notice, during which time the ATP Holder[member] may request a hearing pursuant to Rules 9551 and 9559.

(3) In addition to the foregoing requirements, every ATP Holder's[member's] options communications shall be subject to a routine spot-check procedure. Upon written request from the Department, each ATP Holder[member] shall promptly submit the communications requested. ATP Holders[Members] will not be required to submit communications under this procedure that have been previously submitted pursuant to one of the foregoing requirements.

(4) The requirements of this paragraph (c) shall not be applicable to:

(A) options communications submitted to another self-regulatory organization having comparable standards pertaining to such communications;

(B) communications in which the only reference to options is contained in a listing of the services of the ATP Holder[member];

(d) Standards Applicable to Communications

(2) General Standards

(A) No ATP Holder[member] or associated person of the ATP Holder[member] shall use any options communications which:

(i) contains any untrue statement or omission of a material fact or is otherwise false or misleading;

(ii) contains promises of specific results, exaggerated or unwarranted claims, opinions for which there is no reasonable basis or forecasts of future events which are unwarranted or which are not clearly labeled as forecasts;

(iii) contains cautionary statements or caveats that are not legible, are misleading, or are inconsistent with the content of the material;

(iv) would constitute a prospectus as that term is defined in the Securities Act of 1933, unless it meets the requirements of Section 10 of said Act;

(v) contains statements suggesting the certain availability of a secondary market for options;

(vi) fails to reflect the risks attendant to options transactions and the complexities of certain options investment strategies;

(vii) fails to include a warning to the effect that options are not suitable for all investors or contains suggestions to the contrary; or

(viii) fails to include a statement that supporting documentation for any claims (including any claims made on behalf of options programs or the options expertise of sales persons), comparison, recommendations, statistics, or other technical data, will be supplied upon request.

(B) Subparagraphs (vii) and (viii) above shall not apply to Institutional Communications [sales material] as defined in paragraph (a) of this Rule.

(6) Violation of Other Rules

Any violation by an ATP Holder[a member] or associated person of any rule or requirement of the SEC or any rule of the Securities Investor Protection Corporation applicable to ATP Holder[member] communications concerning options will be deemed a violation of this Rule 991.
