

Dated: March 8, 2019.

Brent J. Fields,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-85266; File No. SR-EMERALD-2019-07]

Self-Regulatory Organizations; MIAX Emerald, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 203, Qualification and Registration of Members and Associated Persons

March 7, 2019.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”) ¹ and Rule 19b-4 thereunder,² notice is hereby given that on February 22, 2019, MIAX Emerald, LLC (“MIAX Emerald” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) a proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend Exchange Rule 203, Qualification and Registration of Members and Associated Persons, in order to harmonize its rule to the rule of the Exchange’s affiliate, Miami International Securities Exchange, LLC (“MIAX Options”).

The text of the proposed rule change is available on the Exchange’s website at <http://www.miaxoptions.com/rule-filings/emerald> at MIAX Emerald’s principal office, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The

Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

MIAX Emerald proposes to amend MIAX Emerald Rule 203, Qualification and Registration of Members and Associated Persons, in order to harmonize its rule to the rule of the Exchange’s affiliate, MIAX Options.

Background

MIAX Emerald plans to commence operations as a national securities exchange registered under Section 6 of the Act³ on March 1, 2019. As described more fully in MIAX Emerald’s Form 1 application,⁴ the Exchange is an affiliate of MIAX Options and MIAX PEARL, LLC (“MIAX PEARL”). MIAX Emerald Rules, in their current form, were filed as Exhibit B to its Form 1 on August 16, 2018, and at that time, the above mentioned MIAX Emerald Rule 203 was substantially similar to the corresponding rule of MIAX Options. In the time between when the Exchange filed its Form 1 and the time the Exchange received its approval order,⁵ MIAX Options made changes to its rules. In order to ensure consistent operation of both MIAX Emerald and MIAX Options through application of consistent rules, the Exchange proposes to amend MIAX Emerald Rule 203, as described below.

Proposal

The Exchange proposes to amend MIAX Emerald Rule 203, Qualification and Registration of Members and Associated Persons, to harmonize its rule with recent rule changes adopted by MIAX Options.⁶

The Securities and Exchange Commission (the “SEC” or the “Commission”) approved a rule change to restructure the Financial Industry Regulatory Authority (“FINRA”) representative-level qualification

examination program.⁷ The rule change, which became effective on October 1, 2018, restructured the examination program into a more efficient format whereby all new representative-level applicants are required to take a general knowledge examination (the Securities Industry Essentials Examination (“SIE”)) and a tailored, specialized knowledge examination (a revised representative-level qualification examination) for their particular registered role. Individuals are not required to be associated with the Exchange or any other self-regulatory organization (“SRO”) member to be eligible to take the SIE. However, passing the SIE alone will not qualify an individual for registration with the Exchange. To be eligible for registration with the Exchange, an individual must also be associated with a firm, pass an appropriate qualification examination for a representative or principal and satisfy the other requirements relating to the registration process.

The Exchange also proposes to add Interpretations and Policies .09 to Rule 203 “Summary of Qualifications Requirements” which summarizes the qualification requirements for each of the required registration categories described in the Exchange Rules.

2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b) of the Act⁸ in general, and furthers the objectives of Section 6(b)(5) of the Act⁹ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general to protect investors and the public interest.

The Exchange believes that the proposed rule change will improve the efficiency of the Exchange’s examination requirements, without compromising the qualification standards, by eliminating duplicative testing of general securities knowledge on examinations. FINRA has indicated that the SIE was developed in an effort to adopt an examination that would assess basic product knowledge; the structure and function of the securities industry markets, regulatory agencies and their functions; and regulated and

³ 15 U.S.C. 78f.

⁴ See Securities Exchange Act Release No. 84891 (December 20, 2018), 83 FR 67421 (December 28, 2018) (File No. 10-233) (order approving application of MIAX EMERALD, LLC for registration as a national securities exchange.)

⁵ *Id.*

⁶ See Securities Exchange Act Release No. 84361 (October 4, 2018), 83 FR 51529 (October 11, 2018) (SR-MIAX-2018-26); see also Securities Exchange Act Release No. 81098 (July 7, 2017), 82 FR 32419 (July 13, 2017) (Order Approving File No. SR-FINRA-2017-007).

⁷ *Id.*

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

prohibited practices. The Exchange also notes that the introduction of the SIE and expansion of the pool of individuals who are eligible to take the SIE, has the potential of enhancing the pool of prospective securities industry professionals by introducing them to securities laws, rules and regulations and appropriate conduct before they join the industry in a registered capacity. Lastly, the Exchange notes adopting the SIE requirement is consistent with the requirement recently adopted by MIAX Options.¹⁰

Furthermore, the Exchange believes that adding Interpretations and Policies .09 to Rule 203 will provide greater clarity regarding the Exchange's examination requirements as updated by, and those remaining in effect following, the proposed rule change, and consistency with the rules of other exchanges.¹¹

Additionally, the Exchange believes that although MIAX Emerald rules may, in certain instances, intentionally differ from MIAX Options rules, the proposed rule change will promote uniformity with MIAX Options with respect to rules that are intended to be identical. The Exchange believes that it will reduce the potential for confusion by its members that are also members of MIAX Options with respect to rules that are intended to be identical.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed rule change, which harmonizes its rules with similar filings by the other national securities exchanges,¹² will reduce the regulatory burden placed on market participants engaged in trading activities across different markets. The Exchange believes that the harmonization of these registration requirements across the various markets will reduce burdens on competition by removing impediments to participation in the national market system and promoting competition among participants across the multiple national securities exchanges.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹³ and Rule 19b-4(f)(6) thereunder.¹⁴

A proposed rule change filed under Rule 19b-4(f)(6)¹⁵ normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹⁶ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that such waiver will help reduce potential confusion by having consistent registration requirement rules across its affiliated exchanges which will, among other things, help protect investors. Additionally, the Exchange states the proposed rule change will create a more efficient examination program which, among other things, is in the public interest. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow MIAX Emerald to harmonize its registration rules with the MIAX Options rules such that members will be subject to the same requirements, which are consistent across the industry and, therefore, the Commission designates the proposed

rule change to be operative upon filing.¹⁷

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-EMERALD-2019-07 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-EMERALD-2019-07. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>).

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of

¹³ 15 U.S.C. 78s(b)(3)(A).

¹⁴ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

¹⁵ 17 CFR 240.19b-4(f)(6).

¹⁶ 17 CFR 240.19b-4(f)(6)(iii).

¹⁰ See *supra* note 6.

¹¹ See e.g. Cboe Exchange, Inc. Rule 3.6A Interpretations and Policies .08(b) and MIAX Options Rule 203, Qualification and Registration of Members and Associated Persons, Interpretations and Policies .09.

¹² *Id.*

¹⁷ For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-EMERALD-2019-07 and should be submitted on or before April 3, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁸

Eduardo A. Aleman,
Deputy Secretary.

[FR Doc. 2019-04556 Filed 3-12-19; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-85262; File No. SR-Phlx-2019-03]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Option Floor Procedure Advice A-9 and Phlx Rules 1000 and 1066 and To Adopt a New Phlx Rule 1078

March 7, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on February 26, 2019, Nasdaq PHLX LLC (“Phlx” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Option Floor Procedure Advice (“OFPA”) A-9, titled “All-or-None Options Orders,” amend Phlx Rule 1066, titled “Certain Types of Floor-Based (Non-System) Orders Defined,” and adopt a new Phlx Rule 1078, titled “All-or-None Orders.”

The text of the proposed rule change is available on the Exchange’s website at

<http://nasdaqphlx.cchwallstreet.com/>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to: (i) Amend OFPA A-9, titled “All-or-None Options Orders”; (ii) amend Phlx Rule 1066, titled “Certain Types of Floor-Based (Non-System) Orders Defined”; (iii) adopt new Phlx Rule 1078, titled “All-or-None Orders;” and (iv) amend Phlx Rule 1000(b)(14) which described a professional order. Each change will be discussed in detail below.

Description of an All-or None Order

Today, Phlx Rule 1066, “Certain Types of Floor-Based (Non-System) Orders Defined,” at paragraph (c)(4) describes an All-or-None Order as a market or limit order which is to be executed in its entirety or not at all. OFPA A-9, describes an all-or-none option order as a limit order which is to be executed in its entirety, or not at all. The Exchange proposes to amend Rule 1066(c)(4) and OFPA A-9 to reference new Phlx Rule 1078 for the description of an All-or-None Order, thereby creating a single description of an All-or-None Order for purposes of the Phlx Rulebook to avoid confusion.

The Exchange proposes to state within new Rule 1078 that, “An All-or-None Order is a limit order or market order that is to be executed in its entirety or not at all.” This is the case today, an All-or-None Order may be either a limit order or market order, as provided for in Rule 1066(c)(4), although the current description within OFPA A-9 simply states limit order. The Exchange has noted in other rule changes that an All-or-None Order may

be a limit or market order.³ The Exchange further proposes to state within new Rule 1078 that “All-or-None Orders are non-displayed and non-routable.”⁴ Also, the Exchange proposes to state that “All-or-None Orders are executed in price-time priority among all public customer⁵ Orders if the size contingency can be met.” Finally, the Exchange proposes to memorialize that, “The Acceptable Trade Range protection in Rule 1099(a) is not applied to All-or-None Orders.” The Exchange previously noted this limitation in a rule change.⁶ The Exchange does not offer the Acceptable Trade Range protection to All-or-None Orders because it is difficult to apply this feature to an all-or-none because of the contingency associated with this order type. The Exchange believes that noting this limitation within new Rule 1078 will add greater transparency to the order type.

Today, All-or-None Orders are available to public customers⁷ and professionals.⁸ The Exchange initially offered All-or-None Orders to professionals in 2010 at the time of the adoption of the new term “professional.”⁹ The Exchange

³ See Securities Exchange Act Release No. 83141 (May 1, 2018), 83 FR 20123, 20124 at footnote 7 (May 7, 2018) (SR-Phlx-2018-32).

⁴ See Securities Exchange Act Release No. 83141 (May 1, 2018), 83 FR 20123, at 20124 (May 7, 2018) (SR-Phlx-2018-32). In this filing the Exchange also noted that an All-or-None Order is a non-displayed order type.

⁵ For purposes of this rule change, the term “public customer” shall mean a person or entity that is not a broker or dealer in securities and is not a professional as defined within Phlx Rule 1000(b)(14).

⁶ See Securities Exchange Act Release No. 69848 (June 25, 2018), 78 FR 39346, 39348 at footnote 4 (July 1, 2013) (SR-Phlx-2013-69).

⁷ See Phlx Rule 1098(b)(v), which states, “All-or-none orders—to be executed in its entirety or not at all. These orders can only be submitted for non-broker-dealer customers.” See Securities Exchange Act Release No. 76742 (December 22, 2015), 80 FR 81393 (December 29, 2015) (SR-Phlx-2015-49). Within this rule change footnote 101 provides, among other information, that these orders can only be submitted for non-broker-dealer customers. See also Securities Exchange Act Release No. 74746 (April 16, 2015), 80 FR 22569 (April 22, 2015) (SR-Phlx-2014-66) (Notice of Filing of Amendment No. 2 and Designation of Longer Period for Commission Action on Proceedings To Determine Whether To Approve or Disapprove Proposed Rule Change, as Modified by Amendment No. 2, To Adopt New Exchange Rule 1081, Solicitation Mechanism, To Introduce a New Electronic Solicitation Mechanism). Footnote 39 to this rule change provides, “All-or-none orders can only be submitted for non-broker dealer customers.”

⁸ The term “professional” means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). See Rule 1000(b)(14).

⁹ See Securities Exchange Act Release No. 61802 (March 30, 2010), 75 FR 17193 (April 5, 2010) (SR-

¹⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.