

the proposed change will enhance competition.

*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 foregoing 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 after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act<sup>42</sup> and Rule 19b-4(f)(6)<sup>43</sup> thereunder.

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act<sup>44</sup> normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)<sup>45</sup> permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. In its filing with the Commission, the Exchange has asked the Commission to waive the 30-day operative delay to allow MIAX Emerald to implement the handling and trading of stock-option orders in a manner identical to that of MIAX Options. As noted above, MIAX Emerald states that the proposed rules are identical to rules adopted by MIAX Options.<sup>46</sup> In addition, MIAX Emerald notes that MIAX Emerald and MIAX Options may have a number of Members in common, and that, where feasible, MIAX Emerald intends to implement similar behavior to provide consistency between MIAX Options and MIAX Emerald to avoid confusion among Members. 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 implement rules regarding the trading of stock-option orders that are identical to rules adopted by MIAX Options, thereby reducing the

potential for confusion among market participants that are Members of both MIAX Emerald and MIAX Options. In addition, the Commission notes that because the proposed rule change is based on substantively identical rules of MIAX Options, the proposal raises no new regulatory issues. Accordingly, the Commission hereby waives the operative delay and designates the proposal operative upon filing.<sup>47</sup>

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](mailto:rule-comments@sec.gov). Please include File Number SR-EMERALD-2019-13 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-2019-13. 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

<sup>47</sup> 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).

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 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 comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-EMERALD-2019-13 and should be submitted on or before April 12, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>48</sup>

**Eduardo A. Aleman,**

*Deputy Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-85346; File No. SR-EMERALD-2019-14]

**Self-Regulatory Organizations; MIAX Emerald, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 518, Complex Orders**

March 18, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on March 6, 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 518, Complex

<sup>48</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>42</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>43</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file 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.

<sup>44</sup> 17 CFR 240.19b-4(f)(6).

<sup>45</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>46</sup> See *supra* note 3, and accompanying text.

Orders, in order to implement identical functionality currently operative on one of the Exchange's affiliates, 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

The Exchange proposes to amend Exchange Rule 518, Complex Orders, to implement functionality, as described below, that is identical to functionality currently operative on MIAX Options.<sup>3</sup> MIAX Emerald commenced operations as a national securities exchange registered under Section 6 of the Act<sup>4</sup> on March 1, 2019. As described more fully in MIAX Emerald's Form 1 application,<sup>5</sup> the Exchange is an affiliate of Miami International Securities Exchange, LLC ("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. At that time MIAX Emerald Rule 518 and MIAX Options Rule 518 were substantially similar. MIAX Options recently amended its Rule 518<sup>6</sup> and in order to ensure consistent operation of both MIAX Emerald and MIAX Options through having consistent rules, the Exchange now proposes to amend MIAX

Emerald Exchange Rule 518 as described below.

Specifically, the Exchange proposes to amend Exchange Rule 518, Complex Orders, to (i) amend the Response Time Interval and Defined Time Period for Complex Auctions (each defined below); (ii) amend Interpretation and Policy .05(f), to add additional detail pertaining to the operation of the Complex MIAX [sic] Price Collar ("MPC"), specifically to adopt new rule text for the use of a Temporary MIAX Price Collar ("TMPC") during a cPRIME Auction or Complex Auction<sup>7</sup> in the limited instance when an MPC has not been assigned; (iii) adopt a new Complex Liquidity Exposure Process ("cLEP"); (iv) make minor changes to the Complex MIAX [sic] Options Price Collar Protection; and (v) clarify that the Calendar Spread Variance ("CSV") price protection applies only to strategies in American-style option<sup>8</sup> classes.

The Exchange proposes to amend subsection (d)(3) which describes the Response Time Interval of a Complex Auction, which is a single-sided auction. The Exchange offers Complex Auction functionality as described in Exchange Rule 518<sup>9</sup> and also a cPRIME process for paired orders, which is unaffected by this proposal, as described in Exchange Rule 515A.12. The Exchange is not proposing to change the cPRIME process, and thus the cPRIME Timer will remain at 100 milliseconds.

Currently, Rule 518(d)(3) provides that the Response Time Interval means the period of time during which responses to the Request for Responses ("RFR") message may be entered. The Rule further provides that the Exchange determines the duration of the Response Time Interval, which shall not exceed 500 milliseconds, and communicates it to Members via Regulatory Circular.<sup>10</sup> The Exchange now proposes to adopt

<sup>7</sup> See Exchange Rule 518(d).

<sup>8</sup> The term "American-style option" means an option contract that, subject to the provisions of Rule 700 (relating to the cutoff time for exercise instructions) and to the Rules of the Clearing Corporation, can be exercised on any business day prior to its expiration date and on its expiration date. See Exchange Rule 100.

<sup>9</sup> Certain option classes, as determined by the Exchange and communicated to Members via Regulatory Circular, will be eligible to participate in a Complex Auction (an "eligible class"). Upon evaluation as set forth in subparagraph (c)(5) of Rule 518, the Exchange may determine to automatically submit a Complex Auction-eligible order into a Complex Auction. Upon entry into the System or upon evaluation of a complex order resting at the top of the Strategy Book, Complex Auction-eligible orders may be subject to an automated request for responses ("RFR"). See Exchange Rule 518(d).

<sup>10</sup> The Exchange notes that the Response Time Interval is currently set to 200 milliseconds.

new rule text to state that, "the end of the trading session will also serve as the end of the Response Time Interval for a Complex Auction still in progress." In connection with this proposed change, the Exchange proposes to amend subsection (d)(2) to remove the reference to the Defined Time Period for a Complex Auction. The Defined Time Period represents the period of time preceding the end of a trading session during which a Complex Auction will not be initiated. Currently, by Exchange rule the Defined Time Period shall be at least 100 milliseconds and may not exceed 10 seconds.<sup>11</sup> The Exchange anticipates it will launch operations with the duration of a Complex Auction set to 200 milliseconds.<sup>12</sup>

The Exchange also proposes to amend subsection (c)(2)(i) to remove the restriction that a cAOA Order<sup>13</sup> received during the Defined Time Period will not initiate a new Complex Auction. Under the current rules there is no opportunity at all for price improvement via a Complex Auction when there is less than two seconds left in the trading session. The Exchange believes that removing the Defined Time Period and allowing the end of the trading session to serve as the end of the Response Time Interval in the limited instance that a Complex Auction is initiated with less than 200 milliseconds left in the trading session will allow for more opportunities for price improvement via the auction process. In the event that a Member initiates a Complex Auction and no Members respond, the initiating Member is no worse off under the proposed rule than the Member would have been under the current rule which prevents the Member from even attempting to initiate a Complex Auction with less than two seconds left in the trading session. Additionally, a Member who initiates a Complex Auction will not forego the opportunity to trade with unrelated interest received during the Auction period, as this interest is included in the Complex Auction.<sup>14</sup>

The Exchange represents that it has the System<sup>15</sup> capacity and capability to conduct auctions and execute transactions in a timely fashion at any

<sup>11</sup> See Exchange Rule 518(d)(2).

<sup>12</sup> The MIAX Options Complex Auction duration is currently set to 200 milliseconds. See MIAX Options Regulatory Circular 2016-46.

<sup>13</sup> A "Complex Auction-on-Arrival" or "cAOA" Order is a complex order designated to be placed into a Complex Auction upon receipt or upon evaluation. See Exchange Rule 518(b)(2).

<sup>14</sup> See Exchange Rule 518(d)(8).

<sup>15</sup> The term "System" means the automated trading system used by the Exchange for the trading of securities. See Exchange Rule 100.

<sup>3</sup> See MIAX Options Exchange Rule 518.

<sup>4</sup> 15 U.S.C. 78f.

<sup>5</sup> 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).

<sup>6</sup> See Securities Exchange Act Release No. 85155 (February 15, 2019), 84 FR 5739 (February 22, 2019) (SR-MIAX-2018-36).

time during the trading session including the last two seconds. Further, the Exchange represents that it has surveillances in place to surveil for conduct that violates the Exchange's rules, specifically as they pertain to Complex Auctions as described herein.<sup>16</sup>

The Exchange also proposes to amend Rule 518, Interpretation and Policy .05, to add additional detail to the rule regarding the establishment of the MIAAX [sic] Price Collar ("MPC") under various circumstances to align MIAAX Emerald rule text to that of MIAAX Options.<sup>17</sup> The MPC is a price protection feature designed to help maintain a fair and orderly market by helping to mitigate the potential risk of executions at prices that are extreme and potentially erroneous. The MPC prevents complex orders from automatically executing at potentially erroneous prices by establishing a price range outside of which a complex order will not be executed.

The Exchange now proposes to amend Rule 518, Interpretation and Policy .05, by removing current subsection (f)(3) and replacing it with new proposed subsections (f)(3) and (f)(4) as described below. New subsection (f)(3) will provide that, "[t]he MPC Price is established: (i) upon receipt of the complex order or eQuote during free trading, or (ii) if the complex order or eQuote is not received during free trading, at the opening (or reopening following a halt) of trading in the complex strategy; or (iii) upon evaluation of the Strategy Book by the System when a wide market condition, as described in Interpretation and Policy .05(e)(1) of this Rule, no longer exists."<sup>18</sup>

New subsection (f)(4) will provide that, "[a] Temporary MPC Price ('TMP Price') is established solely for use during a Complex Auction (as defined in Rule 518(d)) or a cPRIME Auction (as defined in Rule 515A, Interpretation and Policy .12) for (i) any complex order resting on the Strategy Book that does not have an MPC assigned and is eligible to participate in a Complex

Auction or a cPRIME Auction in that strategy; or (ii) any complex order or eQuote received during a cPRIME Auction<sup>19</sup> if a wide market condition existed in a component of the strategy at the start of the cPRIME Auction. The TMP Price shall be the auction start price<sup>20</sup> (the auction start price of a cPRIME Agency Order for a cPRIME Auction is defined in Rule 515A.12(a)(i) and the auction start price for a Complex Auction is defined in Rule 518(d)(1)) plus (minus) the MPC Setting<sup>21</sup> if the order is a buy (sell). If the complex order or eQuote eligible to participate in the Complex Auction or cPRIME Auction is priced more aggressively than the TMP Price (*i.e.*, the complex order or eQuote price is greater than the TMP Price for a buy order, or the complex order or eQuote price is lower than the TMP Price for a sell order) the complex order or eQuote may participate in the auction but will not trade through its TMP Price." The minimum MPC Setting is \$0.00 and the maximum MPC Setting is \$1.00, as determined by the Exchange and communicated to Members via Regulatory Circular.<sup>22</sup> A TMP Price will be calculated for use during the length of the auction for any complex order resting on the Strategy Book that does not have an MPC assigned and is eligible to participate in a Complex Auction or cPRIME Auction in that strategy, or any complex order or eQuote received during a cPRIME Auction if a wide market condition existed in a component of the strategy at the start of the cPRIME Auction.

An example of the TMP Price being established and used is provided below.

*Example 3—A TMP Price is established for an order or eQuote received during a cPRIME Auction*  
 MIAAX Emerald—LMM Mar 50 Call  
 1.00–6.50 (10x10) (Wide Market)  
 MIAAX Emerald—LMM Mar 55 Call  
 2.90–3.30 (10x10)  
 ABBO—Mar 50 Call 6.00–6.30 (10x10)

<sup>19</sup> The Exchange notes that if a wide market condition exists for a component of a complex strategy, trading in the strategy will be suspended, except as otherwise set forth in Exchange Rule 518.05(e)(1)(iii), which states that a wide market condition shall have no impact on the trading of cPRIME Orders and processing of cPRIME Auctions (including the processing of cPRIME Auction responses) pursuant to Rule 515A, Interpretation and Policy .12. See Exchange Rule 518.05(e)(1)(i).

<sup>20</sup> The auction start price for a cPRIME Auction is the initiating price of a cPRIME Agency Order as described in Exchange Rule 515A.12(a)(i). The auction start price for a Complex Auction is the initiating order's limit price as described in Exchange Rule 518(d)(1).

<sup>21</sup> See Exchange Rule 518.05(f).

<sup>22</sup> See Exchange Rule 518.05(f)(2). The Exchange anticipates that the setting for the launch of trading on MIAAX Emerald will be \$.25.

ABBO—Mar 55 Call 3.00–3.30 (10x10)  
 NBBO—Mar 50 Call 6.00–6.30 (10x10)  
 NBBO—Mar 55 Call 3.00–3.30 (10x20)  
 Strategy: Buy 1 Mar 50 Call, Sell 1 Mar 55 Call

The cNBBO is 2.70 debit bid and 3.30 credit offer

The MPC Setting is \$.25.

The Exchange receives a cPRIME Order with the cPRIME Agency Order representing the purchase of the Strategy at a net debit of 3.00, 500 times. Auto-match is not enabled and there are no orders for the Strategy on the Strategy Book.

A TMP Price will be calculated for use during the length of the auction for any complex order or eQuote received during a cPRIME Auction if a wide market condition existed in a component of the strategy at the start of the cPRIME Auction. The TMP Price will be the cPRIME auction start price +/- the MPC Setting. In this example the auction start price is \$3.00. The TMP Price is \$2.75 (\$3.00 - \$.25) for sell orders, and \$3.25 (\$3.00 + \$.25) for buy orders.

An RFR is broadcast to all subscribers and the RFR period is started.

The following responses are received:

- @20 milliseconds BD1 response, cAOC Order @2.95 credit sell of 200 arrives
- @30 milliseconds MM1 response, cAOC eQuote @2.90 credit sell of 200 arrives
- @50 milliseconds C1 response, cAOC Order @2.70 credit sell of 100 arrives

The cPRIME Auction process will continue until the Response Time Interval ends. When the 100 millisecond Response Time Interval ends, the cPRIME Auction process will trade the Agency Order with the best priced responses. The Agency Order will be filled as follows:

- The cPRIME Agency Order buys 100 from C1 @2.75
- The cPRIME Agency Order buys 200 from MM1 @2.90
- The cPRIME Agency Order buys 200 from BD1 @2.95

Note that C1 is prevented from selling at 2.70 by the cPRIME Auction TMP Price limit of 2.75.

The Exchange believes that amending the rule to [sic] regarding the use of a TMP Price, which is applicable only in the limited circumstance when an MPC has not been assigned, and exists only for the duration of a Complex Auction or cPRIME Auction, adds additional detail to the Exchange's rules and provides greater transparency of Exchange functionality. The use of a TMP Price provides protection for orders that participate in either a

<sup>16</sup> The Exchange notes that Rule 518.04, Dissemination of Information, remains in effect for any Complex Auction-eligible order submitted to the Exchange at any time.

<sup>17</sup> See Securities Exchange Act Release No. 84519 (November 1, 2018), 83 FR 55776 (November 7, 2018) (SR-MIAAX-2018-27).

<sup>18</sup> The Exchange notes that if wide market conditions exist (any individual option component of a complex strategy has a displayed EBBO quote width that is wider than the permissible simple market quote width) when an order is received, an MPC will not be calculated until the wide market conditions are resolved. See Exchange Rule 518.05(e)(1).

Complex Auction or a cPRIME Auction when the order does not have an assigned MPC Price as described above. This price protection ensures that orders are not executed at potentially erroneous prices during the auction. The Exchange believes that the proposed changes promote the protection of investors and the public interest by providing greater clarity and specificity of Exchange functionality, and it is in the public interest for the Exchange's rules to be accurate and concise so as to minimize the potential for confusion.

The Exchange also proposes to amend current subsection (f)(4) (proposed subsection (f)(5)) which states that, "Any unexecuted portion of such a complex order or eQuote: (A) Will be cancelled if it would otherwise be displayed or executed at a price that is outside the MPC Price, and (B) may be subject to the managed interest process described in Rule 518(c)(4)." The Exchange proposes to amend this sentence to account for a proposed Complex Liquidity Exposure Process ("cLEP") as described below. The proposed amended sentence will provide, "Any unexecuted portion of such a complex order or eQuote: (A) will be subject to the cLEP as described in subsection (e) of this Rule, and (B) may be subject to the managed interest process described in Rule 518(c)(4)."

The Exchange also proposes to adopt new subsection (e) to Rule 518 to describe a Complex Liquidity Exposure Process ("cLEP") for complex orders and complex eQuotes that would violate their Complex MIAX [sic] Price Collar ("MPC") price. The MPC price protection feature is an Exchange-wide mechanism under which a complex order or complex eQuote to sell will not be displayed or executed at a price that is lower than the opposite side cNBBO<sup>23</sup> bid at the time the MPC is assigned by the System (*i.e.*, upon receipt or upon opening) by more than a specific dollar amount expressed in \$0.01 increments (the "MPC Setting"), and under which a complex order or eQuote to buy will not be displayed or executed at a price that is higher than the opposite side cNBBO offer at the time the MPC is assigned by the System by more than the MPC Setting (each the "MPC Price").<sup>24</sup>

The Exchange now proposes to initiate a Complex Liquidity Exposure

Auction ("cLEP Auction") whenever a complex order or complex eQuote would execute or post at a price that would violate its MPC Price. To begin the cLEP Auction, the System will first broadcast a liquidity exposure message to all subscribers of the Exchange's data feeds. The liquidity exposure message will include the symbol, side of the market, auction start price (MPC Price of the complex order or eQuote), and the imbalance quantity. The purpose of including the imbalance quantity in the RFR message is to inform such participants of the number of contracts that are available for execution.

The System will initiate a Response Time Interval, as determined by the Exchange and communicated via Regulatory Circular which shall be no less than 100 milliseconds and no more than 5,000 milliseconds.<sup>25</sup> At the conclusion of the Complex Liquidity Exposure Auction the resulting trade price will be determined by the Exchange's Complex Auction Pricing described in subsection (d)(6) of this Rule and interest will be executed as provided in subsection (d)(6) of this Rule. In no event will the resulting trade price of a cLEP Auction ever be more aggressive than the MPC Price. Remaining liquidity with an original limit price that is (i) less aggressive (lower for a buy order or eQuote, or higher for a sell order or eQuote) than or equal to the MPC Price will be handled in accordance with subsection (c)(2)(ii)-(v) of this Rule, or (ii) more aggressive than the MPC Price will be subject to the Reevaluation process as described below. Orders and quotes executed in a cLEP Auction will be allocated in accordance with the Complex Auction allocation procedures described in Exchange Rule 518(d)(7)(i)-(vi).

At the conclusion of a cLEP Auction the System will calculate the next potential MPC Price for remaining liquidity with an original limit price more aggressive than the existing MPC Price. The next MPC Price will be calculated as the MPC Price plus (minus) the next MPC increment for buy (sell) orders (the "New MPC Price"). The System will initiate a cLEP Auction for liquidity that would execute or post at a price that would violate its New MPC Price. Liquidity with an original limit price less aggressive (lower for a buy order or eQuote, or higher for a sell order or eQuote) than or equal to the New MPC Price will be posted to the

Strategy Book at its original limit price or handled in accordance with subsection (c)(2)(ii)-(v) of Rule 518. The cLEP process will continue until no liquidity remains with an original limit price that is more aggressive than its MPC Price. At the conclusion of the cLEP process, any liquidity that has not been executed will be posted to the Strategy Book at its original limit price.

The current rule provides that if the MPC Price is priced less aggressively than the limit price of the complex order or eQuote (*i.e.*, the MPC Price is less than the complex order or eQuote's bid price for a buy, or the MPC Price is greater than the complex order or eQuote's offer price for a sell), or if the complex order is a market order, the complex order or eQuote will be displayed and/or executed up to its MPC Price. Any unexecuted portion of such a complex order or eQuote: (A) will be cancelled if it would otherwise be displayed or executed at a price that is outside the MPC Price, and (B) may be subject to the managed interest process described in 518(c)(4).<sup>26</sup>

The Exchange now proposes to amend subsection (f)(6)(A) to provide that any unexecuted portion of such a complex order or eQuote will be subject to the cLEP as described in proposed subsection (e). The Exchange believes it to be in the best interest of the Member<sup>27</sup> to seek liquidity via the Complex Liquidity Exposure Process as described above, rather than cancel any unexecuted portion of the order. The Exchange represents that it has the System capability and capacity to handle the potential cLEP Auctions that may occur under the Exchange's proposal.

The examples below demonstrate an order subject to the Complex Liquidity Exposure Process.

#### Example 1

MPC: \$0.25

The Exchange has one order resting on its Strategy Book:<sup>28</sup> +1 component A, - 1 component B:

Order 1 is to sell 10 at \$1.90  
 EBBO<sup>29</sup> component A: 4.00(10) ×  
 5.00(10)  
 EBBO component B: 2.00(10) ×

<sup>26</sup> See Exchange Rule 518.05(f)(6).

<sup>27</sup> The term "Member" means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are deemed "members" under the Exchange Act. See Exchange Rule 100.

<sup>28</sup> The term "Strategy Book" is the Exchange's electronic book of complex orders and complex quotes. See Exchange Rule 518(a)(17).

<sup>29</sup> The term "EBBO" means the best bid or offer on the Simple Order Book on the Exchange. See Exchange Rule 518(a)(10).

<sup>23</sup> The term cNBBO means the Complex National Best Bid or Offer and is calculated using the National Best Bid or Offer ("NBBO") for each component of a complex strategy to establish the best net bid and offer for a complex strategy. See Exchange Rule 518(a)(2).

<sup>24</sup> See Exchange Rule 518.05(f).

<sup>25</sup> The Exchange notes that the current duration of a cPRIME Auction is 100 milliseconds and the current duration of a Complex Auction is 200 milliseconds.

2.50(10)  
 NBBO<sup>30</sup> component A: 4.05(10) ×  
 4.15(10)  
 NBBO component B: 2.30(10) ×  
 2.40(10)  
 icEBBO:<sup>31</sup> 1.50 (10) × 3.00 (10)  
 cNBBO:<sup>32</sup> 1.65 (10) × 1.85 (10)

The Exchange receives a new order (Order 2) to buy 20 at \$2.25.

Order 2 buys 10 from Order 1 at \$1.90 and initiates the Complex Liquidity Exposure Process: Order 2 reprices to its protected price of \$2.10 (cNBO of 1.85 + 0.25) and is posted at that price on the Strategy Book and the Complex Liquidity Exposure Process Auction begins.

During the cLEP Auction the Exchange receives a new order (Order 3) to sell 10 at \$2.10. This order locks the current same side Book Price of \$2.10. At the end of the auction, Order 3 sells 10 to Order 2 at \$2.10, filling both Order 2 and Order 3.

#### Example 2

MPC: \$0.25

The Exchange has one order resting on its book in Strategy +1 component A, –1 component B:

Order 1 is to sell 10 at \$1.90  
 EBBO component A: 4.00(10) ×  
 5.00(10)  
 EBBO component B: 2.00(10) ×  
 2.50(10)  
 NBBO component A: 4.05(10) ×  
 4.15(10)  
 NBBO component B: 2.30(10) ×  
 2.40(10)  
 icEBBO: 1.50 (10) × 3.00 (10)  
 cNBBO: 1.65 (10) × 1.85 (10)

The Exchange receives a new order (Order 2) to buy 20 at \$2.25.

Order 2 buys 10 from Order 1 at \$1.90 and initiates the Complex Liquidity Exposure Process: Order 2 reprices to its protected price of \$2.10 (cNBO of 1.85 + 0.25) and is posted at that price on the Strategy Book and the Complex Liquidity Exposure Process Auction begins.

No new liquidity arrives during the Auction. At the end of the Auction, Order 2 reprices to its limit of \$2.25 and

<sup>30</sup>The term “NBBO” means the national best bid or offer as calculated by the Exchange based on market information received by the Exchange from OPRA. See Exchange Rule 100.

<sup>31</sup>The Implied Complex MIAx Emerald Best Bid or Offer (“icEBBO”) is a calculation that uses the best price from the Simple Order Book for each component of a complex strategy including displayed and non-displayed trading interest. See Exchange Rule 518(a)(12).

<sup>32</sup>The Complex National Best Bid or Offer (“cNBBO”) is calculated using the NBBO for each component of a complex strategy to establish the best net bid and offer for a complex strategy. See Exchange Rule 518(a)(2).

is posted at that price on the Strategy Book, ending the Complex Liquidity Exposure Process.

#### Example 3

MPC: \$0.25

The Exchange has one order resting on its book in Strategy +1 component A, –1 component B:

Order 1 is to sell 10 at \$1.90  
 EBBO component A: 4.00(10) ×  
 5.00(10)  
 EBBO component B: 2.00(10) ×  
 2.50(10)  
 NBBO component A: 4.05(10) ×  
 4.15(10)  
 NBBO component B: 2.30(10) ×  
 2.40(10)  
 icEBBO: 1.50 (10) × 3.00 (10)  
 cNBBO: 1.65 (10) × 1.85 (10)

The Exchange receives a new order (Order 2) to buy 20 at \$2.45.

Order 2 buys 10 from Order 1 at \$1.90 and initiates the Complex Liquidity Exposure Process: Order 2 reprices to its protected price of \$2.10 (cNBO of 1.85 + 0.25) and is posted at that price on the Strategy Book and the Complex Liquidity Exposure Process Auction begins.

No new liquidity arrives during the Auction. At the end of the Auction, Order 2 reprices to its next protected price of \$2.35 (prior protected price of 2.10 + 0.25) and is posted at that price on the Strategy Book and the Complex Liquidity Exposure Process Auction begins.

No new liquidity arrives during the Auction. At the end of the Auction, Order 2 reprices to its limit of \$2.45 and is posted at that price on the Strategy Book, ending the Complex Liquidity Exposure Process.

Finally, the Exchange proposes to amend subsection (b) of Interpretation and Policy .05 to adopt new rule text stating that the Calendar Spread Variance (“CSV”) price protection applies only to strategies in American-style option classes. A Calendar Spread is a complex strategy consisting of the purchase of one call (put) option and the sale of another call (put) option overlying the same security that have different expirations but the same strike price. The CSV establishes a minimum trading price limit for Calendar Spreads. The maximum possible value of a Calendar Spread is unlimited, thus there is no maximum price protection for Calendar Spreads. The minimum possible trading price limit of a Calendar Spread is zero minus the pre-set value of \$.10. This ensures that the Strategy doesn’t trade more than \$.10 away from its intrinsic value. (On a basic level the price of an American-

style option is comprised of two components; intrinsic value and time value. If the strike price of a call option is \$5.00 and the stock is priced at \$6.00, there is \$1.00 of intrinsic value in the price of the call option, anything above \$1.00 represents the time value component.) An American-style option must be worth at least as much as its intrinsic value because the holder of the option can realize the intrinsic value by immediately exercising the option. In a Calendar Spread strategy comprised of American-style options, ceteris paribus, the far month should be worth more than the near month due to its having a longer time to expiration and therefore a greater time value. As European-style options<sup>33</sup> may only be exercised on their expiration date, the relationship between the stock price, option price, and option strike price that exists for American-style options does not exist for European-style options. Therefore the CSV price protection would be ineffective and will not be available for strategies comprised of European-style options.

Additionally, the Exchange believes that although MIAx Emerald rules may, in certain instances, intentionally differ from MIAx Options rules, the proposed changes will promote uniformity with MIAx Options with respect to rules that are intended to be identical. MIAx Emerald and MIAx Options may have a number of Members in common, and where feasible the Exchange intends to implement similar behavior to provide consistency between MIAx Options and MIAx Emerald so as to avoid confusion among Members.

## 2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b) of the Act<sup>34</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>35</sup> 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 regulating, clearing, settling, processing information with respect to, and 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

<sup>33</sup>The term “European-style option” means an option contract that, subject to the provisions of Rule 700 (relating to the cutoff time for exercise instructions) and to the Rules of the Clearing Corporation, can be exercised only on its expiration date. See Exchange Rule 100.

<sup>34</sup> 15 U.S.C. 78f(b).

<sup>35</sup> 15 U.S.C. 78f(b)(5).

general, to protect investors and the public interest.

The Exchange believes that its proposal to eliminate the Defined Time Period to allow Complex Auctions<sup>36</sup> to occur throughout the trading session removes impediments to and perfects the mechanism of a free and open market and a national market system and, in general, protects investors and the public interest by removing an unnecessary barrier which prevented Complex Auctions from occurring with less than two seconds left in the trading session. The current anticipated duration of a Complex Auction is just 200 milliseconds. The Exchange believes it is in the best interest of the investor to allow for opportunities for price improvement throughout the entire trading session. In the event that a Member initiates a Complex Auction and no Members respond, the initiating Member is no worse off under the proposed rule than the Member would have been under the current rule which prevents the Member from even attempting to initiate a Complex Auction with less than two seconds left in the trading session. Additionally, a Member who initiates a Complex Auction will not forego the opportunity to trade with unrelated interest received during the Auction period, as this interest is included in the Complex Auction.<sup>37</sup>

The Exchange believes the proposed changes promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system because they seek to add additional detail to, and improve the accuracy of, the Exchange's rules. In particular, the Exchange believes that the proposed rule changes will provide clarity and transparency of the Exchange's rules to Members and the public, and it is in the public interest for rules to be accurate and concise so as to minimize the potential for confusion.

Further, the Exchange believes that providing a TMPC Price during a Complex Auction or a cPRIME Auction protects investors against executions at potentially erroneous prices. Additionally, the Exchange believes that adding additional detail to the Exchange's rules regarding the operation of MIAX [sic] Options Price Collar, and

including the method of calculating a TMPC Price for the limited circumstances when one is used, promotes just and equitable principles of trade and removes impediments to a free and open market by providing greater transparency concerning the operation of Exchange functionality.

The Exchange also believes its proposal to adopt a Complex Liquidity Exposure Process promotes just and equitable principles of trade and removes impediments to and perfects the mechanisms of a free and open market and a national market system and, in general, protects investors and the public interest. The Complex Liquidity Exposure Process provides an additional opportunity for price discovery for those orders that would trade through their MPC Price. The Exchange believes its proposal promotes just and equitable principles of trade as it is in the best interest of the Member to seek liquidity for the unexecuted portion of the order which exceeds the order's MPC Price rather than to simply cancel the unexecuted portion back to the Member.<sup>38</sup>

The Exchange also believes that its proposal to amend Interpretation and Policy .05(f) to reflect the changes resulting from the introduction of the Complex Liquidity Exposure Process promotes just and equitable principles of trade, and removes impediments to and perfects the mechanisms of a free and open market and a national market system and, in general, protects investors and the public interest by clearly describing the operation of the Exchange's functionality in the Exchange's rules. The Exchange believes it is in the interest of investors and the public to accurately describe the behavior of the Exchange's System in its rules as this information may be used by investors to make decisions concerning the submission of their orders. Further, the Exchange's proposal to make non-substantive changes to re-number certain paragraphs for internal consistency within the rule benefits investors and the public interest by providing clarity and accuracy in the Exchange's rules.

Finally, the Exchange believes its proposal to clarify that the Calendar Spread Variance (CSV) price protection is available only for American-style options promotes just and equitable principles of trade, and removes

impediments to and perfects the mechanisms of a free and open market and a national market system and, in general, protects investors and the public interest by providing clarity and precision in the Exchange's rules. Given that European-style options may only be exercised on their expiration date, the CSV price protection would be ineffective for strategies comprised of European-style options. Therefore, under the Exchange's proposal, the CSV price protection will not be available for strategies comprised of European-style options. The Exchange believes it is in the interest of investors and the public to accurately describe the behavior of the Exchange's System in its rules as this information may be used by investors to make decisions concerning the submission of their orders. Transparency and clarity are consistent with the Act because it removes impediments to and helps perfect the mechanism of a free and open market and a national market system, and, in general, protects investors and the public interest by accurately describing the behavior of the Exchange's System. In particular, the Exchange believes that the proposed rule change will provide greater clarity to Members and the public regarding the Exchange's Rules, and it is in the public interest for rules to be accurate and concise so as to eliminate the potential for confusion.

#### *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 does not believe the proposed rule change will impose any burden on inter-market competition. The Exchange's proposal seeks to enhance complex order trading on the Exchange, and may potentially enhance competition among the various markets for complex order execution, potentially resulting in more active complex order trading on all exchanges. The changes to the Exchange rules concerning the use of a TMPC Price is designed to add additional detail to the rules to further clarify the operation of Exchange functionality and to minimize the potential for confusion.

Additionally, the Exchange does not believe the proposed rule change will impose any burden on intra-market competition as the Rules apply equally to all Members of the Exchange.

<sup>36</sup> Complex Auctions are described in Exchange Rule 518(d) and are separate and distinct from cPRIME Auctions which are described in Interpretation and Policy .12 of Exchange Rule 515A, MIAX Price Improvement Mechanism ("PRIME") and PRIME Solicitation Mechanism.

<sup>37</sup> See *supra* note 14.

<sup>38</sup> The Exchange notes that Members who believe that an execution has occurred at an erroneous price may avail themselves of the protections provided in Exchange Rule 521, Nullification and Adjustment of Options Transactions Including Obvious Errors.

*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 foregoing 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 after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act<sup>39</sup> and Rule 19b-4(f)(6)<sup>40</sup> thereunder.

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act<sup>41</sup> normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)<sup>42</sup> permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. In its filing with the Commission, the Exchange has asked the Commission to waive the 30-day operative delay to allow MIAX Emerald to harmonize its rules with those of MIAX Options. MIAX Emerald states that the proposal will implement functionality that is identical to functionality currently operative on MIAX Options<sup>43</sup> and does not raise new regulatory issues. In addition, as discussed above, MIAX Emerald notes that MIAX Emerald and MIAX Options may have a number of Members in common, and that, where feasible, MIAX Emerald intends to implement similar behavior to provide consistency between MIAX Options and MIAX Emerald to avoid confusion among Members. 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 rules with those of MIAX Options, thereby reducing the potential for confusion among market participants that are Members of both MIAX Emerald

and MIAX Options. In addition, the Commission notes that the proposed rule change is based on substantively identical rules of MIAX Options and thus raises no new regulatory issues. Accordingly, the Commission hereby waives the operative delay and designates the proposal operative upon filing.<sup>44</sup>

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](mailto:rule-comments@sec.gov). Please include File Number SR-EMERALD-2019-14 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-2019-14. 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 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 comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-EMERALD-2019-14 and should be submitted on or before April 12, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>45</sup>

**Eduardo A. Aleman,**

*Deputy Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-85348; File No. SR-NYSEAMER-2019-05]

**Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Commentary .02 to Rule 960NY To Specify That Replacement Issues May Be Added to the Penny Pilot Quarterly**

March 18, 2019.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the "Act")<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that on March 7, 2019, NYSE American LLC ("NYSE American" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

<sup>45</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

<sup>39</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>40</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file 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.

<sup>41</sup> 17 CFR 240.19b-4(f)(6).

<sup>42</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>43</sup> See *supra* note 3, and accompanying text.

<sup>44</sup> 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).