

emailing the SEC's Secretary at [Secretarys-Office@sec.gov](mailto:Secretarys-Office@sec.gov) and serving the Applicants with a copy of the request by email, if an email address is listed for the relevant Applicant below, or personally or by mail, if a physical address is listed for the relevant Applicant below. Hearing requests should be received by the Commission by 5:30 p.m. on January 9, 2023, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0-5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary at [Secretarys-Office@sec.gov](mailto:Secretarys-Office@sec.gov).

**ADDRESSES:** Secretary, U.S. Securities and Exchange Commission, [Secretarys-Office@sec.gov](mailto:Secretarys-Office@sec.gov). Applicants: [GSilfen@KRAMERLEVIN.com](mailto:GSilfen@KRAMERLEVIN.com).

**FOR FURTHER INFORMATION CONTACT:** Bruce R. MacNeil, Senior Counsel, or Terri Jordan, Branch Chief, at (202) 551-6825 (Chief Counsel's Office, Division of Investment Management).

**SUPPLEMENTARY INFORMATION:** For Applicants' representations, legal analysis, and conditions, please refer to Applicants' third amended and restated application, dated December 6, 2022, which may be obtained via the Commission's website by searching for the file number at the top of this document, or for an Applicant using the Company name search field, on the SEC's EDGAR system. The SEC's EDGAR system may be searched at <http://www.sec.gov/edgar/searchedgar/legacy/companysearch.html>. You may also call the SEC's Public Reference Room at (202) 551-8090.

For the Commission, by the Division of Investment Management, under delegated authority.

**Sherry R. Haywood,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-96524; File No. SR-NYSEAMER-2022-13]

### Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change To Make Certain Amendments to the Preamble to Rule 9217 and To Add Rule 2.1210 to the Exchange's Minor Rule Violation Plan for Equities and Options

December 16, 2022.

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 December 8, 2022, 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 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 and approving the proposal on an accelerated basis.

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

The Exchange proposes (1) certain amendments to the preamble to Rule 9217; (2) to add Rule 2.1210 (Registration Requirements) of the Office Rules to the list of minor rule violations in Rule 9217 for both the equities and options markets; and (3) certain non-substantive clarifying changes to the list of eligible equities and options rules. The proposed rule change is available on the Exchange's website at [www.nyse.com](http://www.nyse.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 self-regulatory organization 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 those statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in sections A, B, and C below,

of the most significant parts of such statements.

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

##### 1. Purpose

The Exchange proposes (1) certain amendments to the preamble to Rule 9217; (2) to add Rule 2.1210 (Registration Requirements) of the Office Rules to the list of minor rule violations in Rule 9217 for both the equities and options markets; and (3) certain non-substantive clarifying changes to the list of eligible equities and options rules.

##### Preamble to Rule 9217

The preamble to current Rule 9217 consists of two paragraphs. The first provides that any member organization or covered person<sup>4</sup> may be subject to a fine under Rule 9216(b) with respect to any rules listed therein and that the fine amounts and fine levels set forth therein shall apply to the fines imposed. The second paragraph provides that nothing in the rule requires the Exchange to impose a fine for a violation of any rule under the Minor Rule Plan and that if the Exchange determines that any violation is not minor in nature, the Exchange may, at its discretion, proceed under the Rule 9000 Series rather than under Rule 9217.

The Exchange proposes to add two additional paragraphs to the preamble based on the preamble to the version of Rule 9217 adopted by the Exchange's affiliate NYSE Arca, Inc. ("NYSE Arca") and to reorder the paragraphs as subsections (a) through (d), as follows.

The current first paragraph of the preamble to Rule 9217 would become new subsection (a). The text would be unchanged except that the Exchange would add " , not to exceed \$5,000,"

<sup>4</sup> For purposes of the Exchange's rules, the term member organization encompasses both equity permit holders (ETP Holders) and options permit holders (ATP Holders). See Rule 1.1E(n) (ETP Holder "means a member organization that has been issued an ETP"); Rule 900.2NY(5) (ATP Holder refers to a natural person, sole proprietorship, partnership, corporation, limited liability company or other organization, in good standing, that has been issued an ATP, and references to member, member organization and 86 Trinity Permit Holder as those terms are used in the Rules of the Exchange are deemed to be references to ATP Holders. ATP Holders have status as a "member" of the Exchange as that term is defined in Section 3 of the Act). Rule 9120(g) defines covered person to mean a member, principal executive, approved person, registered or non-registered employee of a member organization or an ATP Holder, or other person (excluding a member organization) subject to the jurisdiction of the Exchange.

<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.

after fine to clarify that a minor rule fine on the Exchange cannot exceed \$5,000.<sup>5</sup>

The Exchange would add a new subsection (b) that would provide that Regulatory Staff designated by the Exchange shall have the authority to impose a fine pursuant to this Rule. Proposed Rule 9217(b) is identical to NYSE Arca Rule 10.9217(b).

The Exchange would also add the following text as new subsection (c) to Rule 9217:

Any member organization or covered person found in violation of a minor rule is not required to report such violation on SEC Form BD or Form U-4 if the sanction imposed consists of a fine not exceeding \$2,500 and the sanctioned member organization or covered person has not sought an adjudication, including a hearing, or otherwise exhausted the administrative remedies available with respect to the matter. Any fine imposed in excess of \$2,500 is subject to current rather than quarterly reporting to the Commission pursuant to Rule 19d-1 under the Act.

Except for substituting “member organization or covered person” for “person or organization,” proposed subsection (c) is identical to NYSE Arca Rule 10.9217(c).

Finally, the current second paragraph of the preamble to Rule 9217 would become new subsection (d). The text of proposed Rule 9217(d) would be unchanged.

#### Addition of Rule 2.1210 to the List of Rules Eligible for a Minor Fine

The Exchange proposes to add Rule 2.1210 to the list of rules in Rule 9217 eligible for disposition pursuant to a minor fine under Rule 9216(b) for its equities and options markets.

Rule 2.1210, which was adopted in 2018,<sup>6</sup> sets forth the requirements for persons engaged in the investment banking or securities business of a member organization or ETP Holder<sup>7</sup> to

be registered with the Exchange as a representative or principal in each category of registration appropriate to his or her functions and responsibilities as specified in Rule 2.1220.

The Exchange proposes to add Rule 2.1210 to the list of rules in Rule 9217 eligible for disposition pursuant to a fine under Rule 9216(b). Specifically, the Exchange proposes to add Rule 2.1210 to the “List of Equities Rule Violations and Fines Applicable Thereto” under current subsection (b), titled “Record Keeping and Other Minor Rule Violations,” and to the “List of Options Rule Violations and Fines Applicable Thereto” under current subsection (i) titled “List of Options Rule Violations and Fines Applicable Thereto.” The substantially similar version of Rule 2.1210 was adopted by the Exchange’s affiliate New York Stock Exchange LLC (“NYSE”) in 2018<sup>8</sup> and is currently eligible for minor rule fines under the NYSE’s version of Rule 9217.<sup>9</sup> The Exchange believes that having the ability to issue a minor rule fine for failing to comply with the registration requirements of Rule 2.1210 would be consistent with and complement the Exchange’s current ability to issue minor rule fines for other registration violations (e.g., Rule 2.21E (Employees of ETP Holders Registration) and Rule 341 (Approval of Registered Employees and Officers)). The Exchange further believes that the violations of the registration requirements are particularly suited to minor rule fines because minor fines provide a reasonable means of addressing violations that do not rise to the level of requiring formal disciplinary proceedings, while providing greater flexibility in handling certain violations.

The Exchange further proposes to add fine levels for violations of Rule 2.1210 to both the equities and the options fine schedules. First, the Exchange would add proposed first, second and third level fines for violations of Rule 2.1210 to the equities fine schedule of \$1,000 for the first violation, \$2,500 for the second violation and \$3,500 for the third and subsequent violations. The proposed fine levels would be the same as those in the Exchange’s current Rule 10.9217(d)(2)(3) for violations of Rule

engaged in the investment banking or securities business of a member organization or ETP Holder would also be covered persons for purposes of the Exchange’s disciplinary rules.

<sup>8</sup> See Securities Exchange Act Release No. 84336 (October 2, 2018), 83 FR 50727 (October 9, 2018) (SR-NYSE-2018-46) (Notice of Filing and Immediate Effectiveness of Amendments To Rules Regarding Qualification, Registration and Continuing Education Applicable to Members and Member Organizations).

<sup>9</sup> See NYSE Rule 9217.

2.21E. Second, the Exchange would add proposed first, second and third level fines for violations of Rule 2.1210 to the options fine schedule of \$1,000 for the first violation, \$2,500 for the second violation and \$3,500 for the third and subsequent violations. The proposed fine levels would be the same as those in the Exchange’s current Rule 10.9217(ii)(11) for violations of Rule 341.

The Exchange believes that the proposed change would strengthen the Exchange’s ability to carry out its oversight and enforcement responsibilities in cases where full disciplinary proceedings are unwarranted in view of the minor nature of the particular violation.

#### Non-Substantive Clarifying Changes

The Exchange also proposes the following non-substantive clarifying changes to the list equities and options rules eligible for a minor fine.

#### Equities Rules and Applicable Fines

- Under the heading “List of Equities Rule Violations and Fines Applicable Thereto,” the Exchange would delete “(a),” “(b),” “(c),” “(d)” and “(e).”
- When the Exchange added the Rule 6800 Series to the list of minor rule violations, violations of the Rule 6800 Series and the corresponding fine levels were inadvertently placed under the legacy minor rules sections of Rule 9217 and omitted from current Rule 9217(b) (Record Keeping and Other Minor Rule Violations) and (d) (Fine Schedule).<sup>10</sup> To address this oversight, the Exchange would amend current Rules 9217(b) and (d) as follows.

First, the following bullet would be added under to current Rule 9217(b) immediately after the newly added violations of Rule 2.1210: “Rule 6800—Series of the Office Rules—Failure to comply with the Consolidated Audit Trail Compliance Rule requirements.”

Second, the following bullet would be added at the end of current Rule 9217(d)(2): “Failure to comply with the Consolidated Audit Trail Compliance Rule requirements set forth in the Rule 6800 Series of the Office Rules.”<sup>2</sup> Proposed footnote 2 would read “For failures to comply with the Consolidated Audit Trail Compliance Rule requirements of the Rule 6800 Series, the Exchange may impose a

<sup>10</sup> See Securities Exchange Act Release No. 89402 (July 27, 2020), 85 FR 46203 (July 31, 2020) (SR-NYSEAMER-2020-52) (Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Adding the Consolidated Audit Trail Industry Member Compliance Rules to the List of Minor Rule Violations in Rule 9217). Rules 9217(c) and (e) relate to legacy minor rules and associated fine levels.

<sup>5</sup> See Securities Exchange Act Release No. 77241 (February 26, 2016), 81 FR 11311, 11325 n.50 (March 3, 2016) (SR-NYSEMKT-2016-30) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Adopting Investigation, Disciplinary, Sanction, and Other Procedural Rules Modeled on the Rules of the New York Stock Exchange LLC and Certain Conforming and Technical Changes) (noting that proposed NYSE American Rule 9216(b) would retain the Exchange’s maximum fine for minor rule violations of \$5,000).

<sup>6</sup> See Securities Exchange Act Release No. 84388 (October 10, 2018), 83 FR 52287 (October 16, 2018) (SR-NYSEAmer-2018-46) (Notice of Filing and Immediate Effectiveness of Amendments to Rules Regarding Qualification, Registration and Continuing Education Applicable to Member Organizations, Equity Trading Permit Holders, and American Trading Permit Holders).

<sup>7</sup> Since member organizations encompass ETP Holders, the current formulation in Rule 2.1210 is redundant. See note 4, *supra*. The Exchange will submit a proposed rule change to clarify Rule 2.1210. The Exchange also notes that persons

minor rule violation fine of up to \$2,500. For more serious violations, other disciplinary action may be sought.”

The proposed changes to current Rules 9217(b) and (d) are not intended to make substantive changes. Violations of the CAT Compliance Rules are currently eligible for minor rule fines and \$2,500 is currently the maximum eligible fine. The text proposed to be added to Rules 9217(b) and (d) is identical to text in current Rules 9217(c) and (e). Proposed footnote 2 is identical to text at the end of current Rule 9217(e) (Legacy Minor Rules Fine Schedule) as well as that adopted by the Exchange’s affiliates NYSE and NYSE Chicago, Inc.<sup>11</sup> As discussed below, the same footnote would be added to the options list of minor rule violations as new footnote 4.

- Under the first paragraph in current Rule 9217(d) (Fine Schedule), the Exchange proposes to add the clause “, with the exception of fines pursuant to the Rule 6800 Series” to the first sentence. As proposed, the sentence would read “These fines are intended to apply to minor violations, with the exception of fines pursuant to the Rule 6800 Series.” The proposed change would render the sentence in current subsection (d) identical to the sentence at the end of current subsection (c). In addition to making the Exchange’s rules more internally consistent and more like those of its affiliates,<sup>12</sup> the proposed change would clarify that minor rule fines for violations of the Rule 6800 Series cannot exceed \$2,500. As discussed below, the Exchange would add the same clause to the same sentence that appears in the options rules section.

- The Exchange proposes the following additional change to the equities fine schedule set forth in current Rule 9217(d):

- The number “1” would be deleted from the first heading “Trading Rule Violations Fine Levels.” Underneath that heading, numbering would be replaced with bullets to conform with current subsections (a), (b) and (c) of Rule 9217 governing equities rules violations.

- The number “2” would be deleted from the second heading “Record Keeping and Other Minor Rule Violations Fine Levels.” Underneath

that heading, the Exchange would similarly replace numbering with bullets to conform with current subsections (a), (b) and (c) of Rule 9217 governing equities rules violations.

#### Options Rules and Applicable Fines

- Under the heading “List of Options Rule Violations and Fines Applicable Thereto,” the Exchange would delete “(i),” “(ii)” and “(iii)”. The Exchange would also replace all numbering and lettering with bullets in the list of eligible options rules and recommended fine levels.

- Current subsection (i) would be renamed “Trading Rule Violations and Options Floor Decorum” to more accurately reflect the eligible listed rules.

- Under current subsection (ii) (Minor Rule Plan: Record Keeping and Other Minor Rule Violations), the Exchange would add a new footnote 4 at the end of current item 13 that relates to failure to comply with the Consolidated Audit Trail Compliance Rule requirements set forth in the Rule 6800 Series of the Office Rules. Proposed footnote 4 would be identical to footnote 2 described above that the Exchange would add to Rule 9217(d)(2) in the equities rules section.

- Similar to the change described above for the equities list, the Exchange would add the clause “, with the exception of fines pursuant to the Rule 6800 Series” to the first sentence in the second paragraph under current subsection (iii) (Minor Rule Plan: Recommended Fine Schedule).

- The Exchange would move footnote 1 that appears in the Options Floor Decorum and Minor Trading Rule Violations fine levels under current subsection (iii) to the end of the options list rule with the other footnotes.

- The Exchange would delete “(ii)” before “Record Keeping and Other Minor Rule Violations.”

- Finally, the Exchange would add a reference to proposed footnote 4 at the end of current item 13 under “Record Keeping and Other Minor Rule Violations.” In addition, “Up to \$2,500.00” would be deleted from the chart as redundant of proposed footnote 4.

#### 2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,<sup>13</sup> in general, and furthers the objectives of Section 6(b)(5),<sup>14</sup> in particular, because 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 mechanism of, a free and open market and a national market system and, in general, to protect investors and the public interest.

#### Preamble to Rule 9217

The Exchange believes that harmonizing the preamble to Rule 9217 with that of its affiliates would remove impediments to and perfect the mechanism of a free and open market and a national market system by a providing greater harmonization between Exchange rules and those of its affiliates in connection with minor rule fines, thereby fostering cooperation and coordination with persons engaged in facilitating transactions in securities and will remove impediments to and perfect the mechanism of a free and open market and a national market system. Moreover, by adopting the same applicable minor rule standards for violations of those standards as its affiliates, the Exchange would promote regulatory consistency.

#### Addition of Rule 2.1210 to the List of Eligible Rules

Minor rule fines provide a meaningful sanction for minor or technical violations of rules when the conduct at issue does not warrant stronger, immediately reportable disciplinary sanctions. The inclusion of a rule in Rule 9217 does not minimize the importance of compliance with the rule, nor does it preclude the Exchange from choosing to pursue violations of eligible rules through formal disciplinary action if the nature of the violations or prior disciplinary history warrants more significant sanctions. Rather, the Exchange believes that the proposed rule change will strengthen the Exchange’s ability to carry out its oversight and enforcement responsibilities in cases where full disciplinary proceedings are unwarranted in view of the minor nature of the particular violation. The option to impose a minor rule sanction gives the Exchange additional flexibility to administer its enforcement program in the most effective and efficient manner while still fully meeting the Exchange’s remedial objectives in addressing violative conduct. The proposed rule change is thus designed to prevent fraudulent and manipulative acts and practices because it will provide the Exchange the ability to issue a minor rule fine for violations of the

<sup>11</sup> See NYSE Rule 9217(d) (“For failures to comply with the Consolidated Audit Trail Compliance Rule requirements of the Rule 6800 Series, the Exchange may impose a minor rule violation fine of up to \$2,500. For more serious violations, other disciplinary action may be sought.”); NYSE Chicago 10.9217(f), n. \*\* (same).

<sup>12</sup> See, e.g., NYSE Rule 9217.

<sup>13</sup> 15 U.S.C. 78f(b).

<sup>14</sup> 15 U.S.C. 78f(b)(5).

registration requirements set forth in Rule 2.1210 where a more formal disciplinary action may not be warranted or appropriate. In addition, the Exchange believes that adding rules based on the rules of its affiliate to the Exchange's minor rule plan would promote fairness and consistency in the marketplace by permitting the Exchange to issue a minor rule fine for violations of substantially similar rules that are already eligible for minor rule treatment, thereby harmonizing rules eligible for minor rule fines across affiliated exchanges.

The Exchange further believes that the proposed amendments to Rule 9217 are consistent with Section 6(b)(6) of the Act,<sup>15</sup> which provides that members and persons associated with members shall be appropriately disciplined for violation of the provisions of the rules of the Act, the rules and regulations thereunder, and the rules of the exchange, by expulsion, suspension, limitation of activities, functions, and operations, fine, censure, being suspended or barred from being associated with a member, or any other fitting sanction. As noted, the proposed rule change would provide the Exchange ability to sanction minor or technical violations of proposed Rule 2.1210 pursuant to the Exchange's rules. Finally, the Exchange also believes that the proposed changes are designed to provide a fair procedure for the disciplining of members and persons associated with members, consistent with Sections 6(b)(7) and 6(d) of the Act.<sup>16</sup> Rule 9217 does not preclude a member organization or covered person from contesting an alleged violation and receiving a hearing on the matter with procedural rights through a litigated disciplinary proceeding.

#### Non-Substantive Clarifying Changes

The Exchange believes that the proposed reorganization, renaming and replacement of numbers with bullets in Rule 9217 and related changes described above would add clarity and consistency to the Exchange's rules. The Exchange believes that adding such clarity would also be consistent with the public interest and the protection of investors because investors will not be harmed and in fact would benefit from increased clarity, thereby reducing potential confusion. In addition, the Exchange believes that moving text to achieve internal consistency and address inadvertent errors relating to violations of the CAT Compliance Rules also adds clarity to the Exchange's rules.

Finally, the Exchange believes that harmonizing the preamble to Rule 9217 with that of its affiliates would promote fairness and consistency in the marketplace by eliminating differences and harmonizing language related to minor rule treatment of similar rule violations across affiliates. The proposed change is not intended to make any substantive change to the applicability of minor rule fines to violations of the CAT Compliance Rules or the amount of those fines.

#### *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 proposed change is not designed to address any competitive issue but rather to update the Exchange's rules to strengthen the Exchange's ability to carry out its oversight and enforcement functions and deter potential violative conduct and to align the Exchange's rule setting forth violations eligible for a minor rule fine more closely with that of its affiliates.

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

No written comments were solicited or received with respect to the proposed rule change.

### III. 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-NYSEAMER-2022-13 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-NYSEAMER-2022-13. 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 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-NYSEAMER-2022-13 and should be submitted on or before January 12, 2023.

### IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>17</sup> In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>18</sup> which requires that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments and to perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission also believes that the proposal is consistent with Sections 6(b)(1) and 6(b)(6) of the Act<sup>19</sup> which require that the rules of an exchange enforce compliance with, and provide appropriate discipline for, violations of Commission and Exchange rules. Finally, the Commission finds that the

<sup>17</sup> In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>18</sup> 15 U.S.C. 78b(5).

<sup>19</sup> 15 U.S.C. 78b(1) and 78b(6).

<sup>15</sup> 15 U.S.C. 78f(b)(6).

<sup>16</sup> 15 U.S.C. 78f(b)(7) and 78f(d).

proposal is consistent with the public interest, the protection of investors, or otherwise in furtherance of the purposes of the Act, as required by Rule 19d–1(c)(2) under the Act,<sup>20</sup> which governs minor rule violation plans.

As stated above, the Exchange proposes to (1) make certain revisions to the preamble to Rule 9217 (Violations Appropriate for Disposition Under Rule 9216(b)); (2) add Rule 2.1210 (Registration Requirements) to the list of minor rule violations in Rule 9217 and associated fine levels for its equities and options markets; and (3) make certain non-substantive clarifying changes to Rule 9217.

The Commission believes that Rules 9216(b) and 9217 are an effective way to discipline a member for a minor violation of a rule. More specifically, the Commission believes that the proposed revisions to the preamble of Rule 9217 are consistent with the Act because they would add clarity to the Exchange's rules and may help the Exchange's ability to better carry out its oversight and enforcement responsibilities. The proposed revisions to the preamble of Rule 9217 also would align Rule 9217 with the rules of the Exchange's affiliates. The Commission believes that the proposed addition of Rule 2.1210 (Registration Requirements) to the Exchange's list of current minor rule violations provides a reasonable means of addressing violations that do not rise to the level of requiring formal disciplinary proceedings, while providing greater flexibility in handling certain violations. Furthermore, the Commission believes that amending the associated fine schedule is consistent with the Act because it may help the Exchange's ability to better carry out its oversight and enforcement responsibilities by levying appropriate fines for minor violations of the rules included in Rule 9217, including minor violations of Rule 2.1210. Finally, the Commission believes that the Exchange's proposal to make certain non-substantive changes to Rule 9217 are consistent with the Act because these changes will add clarity to the Exchange's rules.

In approving the proposed rule change, the Commission in no way minimizes the importance of compliance with the Exchange's rules and all other rules subject to fines under Rules 9216(b) and 9217. The Commission believes that a violation of any self-regulatory organization's rules, as well as Commission rules, is a serious matter. However, Rules 9216(b) and 9217 provide a reasonable means of

addressing rule violations that may not rise to the level of requiring formal disciplinary proceedings, while providing greater flexibility in handling certain violations. The Commission expects that the Exchange will continue to conduct surveillance with due diligence and make a determination based on its findings, on a case-by-case basis, whether a fine of more or less than the recommended amount is appropriate for a violation under Rules 9216(b) and 9217 or whether a violation requires formal disciplinary action.

For the same reasons as discussed above, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,<sup>21</sup> for approving the proposed rule change prior to the thirtieth day after the date of publication of the notice of the filing thereof in the **Federal Register**. The proposal will assist the Exchange in preventing fraudulent and manipulative practices by allowing the Exchange to adequately enforce compliance with, and provide appropriate discipline for, violations of Exchange rules. Moreover, the proposed changes raise no new or novel issues. Accordingly, the Commission believes that a full notice-and-comment period is not necessary before approving the proposal.

#### V. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act<sup>22</sup> and Rule 19d–1(c)(2) thereunder,<sup>23</sup> that the proposed rule change (SR–NYSEAMER–2022–13) be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>24</sup>

**Sherry R. Haywood**,  
Assistant Secretary.

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**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–96521; File No. SR–EMERALD–2022–36]

### Self-Regulatory Organizations; MIAX Emerald, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule Relating to FINRA Fees

December 16, 2022.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act

<sup>21</sup> 15 U.S.C. 78s(b)(2).

<sup>22</sup> 15 U.S.C. 78s(b)(2).

<sup>23</sup> 17 CFR 240.19d–1(c)(2).

<sup>24</sup> 17 CFR 200.30–3(a)(12).

of 1934 (“Act”)<sup>1</sup> and Rule 19b–4 thereunder,<sup>2</sup> notice is hereby given that on December 8, 2022, MIAX Emerald, LLC (“MIAX Emerald” or “Exchange”), filed with the Securities and Exchange Commission (“Commission”) a 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 is filing a proposal to amend the MIAX Emerald Fee Schedule (the “Fee Schedule”) to reflect adjustments to the Financial Industry Regulatory Authority, Inc. (“FINRA”) Registration Fees and Fingerprinting Fees.

While the changes proposed herein are effective upon filing, the Exchange has designated the additional processing of each initial or amended Form U4, Form U5 or Form BD and electronic Fingerprint Processing Fees to become operative on January 2, 2023. Additionally, the Exchange designates that the FINRA Annual System Processing Fee Assessed only during Renewals become operative on January 2, 2024.<sup>3</sup> The amendments to the paper Fingerprint Fees are immediately effective.

The text of the proposed rule change is available on the Exchange's website at <http://www.miaxoptions.com/rule-filings/emerald>, at MIAX'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.

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

<sup>2</sup> 17 CFR 240.19b–4.

<sup>3</sup> See Securities Exchange Act Release No. 90176 (October 14, 2020), 85 FR 66592 (October 20, 2020) (SR–FINRA–2020–032) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Adjust FINRA Fees to Provide Sustainable Funding for FINRA's Regulatory Mission).

<sup>20</sup> 17 CFR 240.19d–1(c)(2).