

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270-429, OMB Control No. 3235-0480]

Proposed Collection; Comment Request; Extension: Rule 9b-1

Upon Written Request, Copies Available

From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (“PRA”) (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (“Commission”) is soliciting comments on the existing collection of information provided for in Rule 9b-1, Options Disclosure Document (17 CFR 240.9b-1), under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget (“OMB”) for extension and approval.

Rule 9b-1 (17 CFR 240.9b-1) sets forth the categories of information required to be disclosed in an options disclosure document (“ODD”) and requires the options markets to file an ODD with the Commission 60 days prior to the date it is distributed to investors. In addition, Rule 9b-1 provides that the ODD must be amended if the information in the document becomes materially inaccurate or incomplete and that amendments must be filed with the Commission 30 days prior to the distribution to customers. Finally, Rule 9b-1 requires a broker-dealer to furnish to each customer an ODD and any amendments prior to accepting an order to purchase or sell an option on behalf of that customer or when approving a customer’s account for options trading.

There are 17 options markets¹ that must comply with Rule 9b-1. These respondents work together to prepare a single ODD covering options traded on each market, as well as amendments to the ODD. These respondents file approximately 3 amendments per year. The staff calculates that the preparation and filing of amendments should take no more than eight hours per options market. Thus, the total time burden for options markets per year is approximately 408 hours (17 options

¹ The seventeen options markets are as follows: BOX Exchange LLC, Cboe BZX Exchange, Inc., Cboe C2 Exchange, Inc., Cboe EDGX Exchange, Inc., Cboe Exchange, Inc., MEMX, LLC, Miami International Securities Exchange LLC, MIAX Emerald, LLC, MIAX PEARL, LLC, Nasdaq BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC, Nasdaq PHLX LLC, the Nasdaq Options Market (NOM), NYSE Arca, Inc., and NYSE American LLC.

markets × 8 hours per amendment × 3 amendments). The estimated cost for an in-house attorney is \$483 per hour,² resulting in a total internal cost of compliance for these respondents of approximately \$197,064 per year (408 hours at \$483 per hour).

In addition, approximately 955 broker-dealers³ must comply with Rule 9b-1. Each of these respondents will process an average of 3 new customers for options each week and, therefore, will have to furnish approximately 156 ODDs per year. The postal mailing or electronic delivery of the ODD takes respondents no more than 30 seconds to complete for an annual time burden for each of these respondents of approximately 78 minutes or 1.3 hours. Thus, the total time burden per year for broker-dealers is approximately 1,242 hours (955 broker-dealers × 1.3 hours). The estimated cost for a general clerk of a broker-dealer is \$81 per hour,⁴ resulting in a total internal cost of compliance for these respondents of approximately \$100,602 per year (1,242 hours at \$81 per hour).

The total time burden for all respondents under this rule (both options markets and broker-dealers) is approximately 1,650 hours per year (408 hours for options markets + 1,242 hours for broker-dealers), and the total internal cost of compliance is approximately \$297,666 per year (\$197,064 + \$100,602).

Written comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission’s

² SIFMA did its last annual survey in 2013 and will not resume the survey process. Accordingly, the \$483 figure is based on the 2013 figure (\$380) adjusted by the inflation rate calculated using the Bureau of Labor Statistics’ CPI Inflation Calculator. The \$380 per hour figure for an Attorney is from SIFMA’s *Management & Professional Earnings in the Securities Industry 2013*, modified by Commission staff to account for an 1800-hour work-year and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead.

³ The estimate of 955 broker-dealers required to comply with Rule 9b-1 is derived from Item 12 of the Form BD (OMB Control No. 3235-0012). This estimate may be high as it includes broker-dealers that engage in only a proprietary business, and as a result are not required to deliver an ODD, as well as those broker-dealers subject to Rule 9b-1.

⁴ The \$81 figure is based on the 2013 figure (\$57) adjusted for inflation. *See supra* note 2. The \$57 per hour figure for a General Clerk is from SIFMA’s *Office Salaries in the Securities Industry 2013*, modified by Commission staff to account for an 1800-hour work-year and multiplied by 2.93 to account for bonuses, firm size, employee benefits and overhead. The staff believes that the ODD would be mailed or electronically delivered to customers by a general clerk of the broker-dealer or some other equivalent position.

estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted by April 9, 2024.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549, or send an email to: PRA_Mailbox@sec.gov.

Dated: February 6, 2024.

Sherry R. Haywood

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-99475; File No. SR-EMERALD-2024-03]

Self-Regulatory Organizations; MIAX Emerald, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule To Modify Certain Connectivity and Port Fees

February 5, 2024.

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 January 25, 2024, 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 proposes to amend the MIAX Emerald Options Exchange Fee Schedule (the “Fee Schedule”) to

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.