

Required fields are shown with yellow backgrounds and asterisks.

Filing by MIAX Emerald, LLC
 Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial *	Amendment *	Withdrawal	Section 19(b)(2) *	Section 19(b)(3)(A) *	Section 19(b)(3)(B) *
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
			Rule		
Pilot	Extension of Time Period for Commission Action *	Date Expires *	<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="text"/>	<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input checked="" type="checkbox"/> 19b-4(f)(6)	

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010	Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934
Section 806(e)(1) *	Section 806(e)(2) *
<input type="checkbox"/>	<input type="checkbox"/>
	Section 3C(b)(2) *
	<input type="checkbox"/>

Exhibit 2 Sent As Paper Document	Exhibit 3 Sent As Paper Document
<input type="checkbox"/>	<input type="checkbox"/>

Description

Provide a brief description of the action (limit 250 characters, required when Initial is checked *).

Proposal to amend Exchange Rules 521 and 530 to make permanent certain options market rules that are linked to the equity market Plan to Address Extraordinary Market Volatility.

Contact Information

Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name * Michael Last Name * Slade

Title * Counsel

E-mail * mslade@miami-holdings.com

Telephone * (609) 897-8499 Fax

Signature

Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

(Title *)

Date 10/16/2019 Senior Vice President and Deputy General Counsel

By Joseph Ferraro [Signature Box]

(Name *)

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

jferraro@miami-holdings.com

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFF website.

Form 19b-4 Information *

Add Remove View

The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

Exhibit 1 - Notice of Proposed Rule Change *

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 1A- Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice by Clearing Agencies *

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change, security-based swap submission, or advance notice being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications

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Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

Exhibit 3 - Form, Report, or Questionnaire

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Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

Exhibit 4 - Marked Copies

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

Exhibit 5 - Proposed Rule Text

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The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

Partial Amendment

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of Proposed Rule Change

(a) MIAX Emerald, LLC (“MIAX Emerald” or “Exchange”), pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² proposes to amend Exchange Rule 521, Nullification and Adjustment of Options Transactions Including Obvious Errors, Interpretation and Policy .01, and Exchange Rule 530, Limit Up-Limit Down, to make permanent certain options market rules that are linked to the equity market Plan to Address Extraordinary Market Volatility.

A notice of the proposed rule change for publication in the Federal Register is attached hereto as Exhibit 1, and a copy of the proposed amended rule text is attached hereto as Exhibit 5.

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by the Chief Executive Officer of the Exchange pursuant to authority delegated by the MIAX Emerald Board of Directors on January 31, 2019. Exchange staff will advise the Board of Directors of any action taken pursuant to delegated authority. No other action by the Exchange is necessary for the filing of the proposed rule change.

Questions and comments on the proposed rule change may be directed to Michael Slade, Counsel, at (609) 897-8499.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

a. Purpose

The purpose of the proposed rule change is to make permanent certain options market rules in connection with the equity market Plan to Address Extraordinary Market Volatility (the “Limit Up-Limit Down Plan” or the “Plan”). This change is being proposed in connection with the recently approved amendment to the Limit Up-Limit Down Plan that allows the Plan to continue to operate on a permanent basis (“Amendment 18”).³

In an attempt to address extraordinary market volatility in NMS Stock, and, in particular, events like the severe volatility on May 6, 2010, U.S. national securities exchanges and the Financial Industry Regulatory Authority, Inc. (collectively, “Participants”) drafted the Plan pursuant to Rule 608 of Regulation NMS and under the Act.⁴ On May 31, 2012, the Commission approved the Plan, as amended, on a one-year pilot basis.⁵ Though the Plan was primarily designed for equity markets, the Exchange believed it would, indirectly, potentially impact the options markets as well. Thus, the Exchange has previously adopted and amended Exchange Rule 521, Interpretation and Policy .01, and Exchange Rule 530, to ensure the option markets were not harmed as a result of the Plan’s implementation and implemented such rules on a pilot basis that has coincided with the pilot period for the Plan (collectively, the “Options Pilots”).⁶ Exchange Rule 530 essentially serves as a roadmap for the Exchange’s universal changes due to the

³ See Securities Exchange Act Release No. 85623 (April 11, 2019), 84 FR 16086 (April 17, 2019) (Order Approving Amendment No. 18).

⁴ See Securities Exchange Act Release No. 64547 (May 25, 2011), 76 FR 31647 (June 1, 2011)(File No. 4-631).

⁵ See Securities and Exchange Act Release No. 67091 (May 31, 2012) 77 FR 33498 (June 6, 2012).

⁶ See Securities Exchange Act Release No. 85568 (April 9, 2019), 84 FR 15243 (April 15, 2019)(SR-EMERALD-2019-17).

implementation of the Plan and provides for trading halts whenever a market-wide trading halt is initiated due to extraordinary market conditions pursuant to the Plan. Exchange Rule 521, Interpretation and Policy .01, provides that transactions executed during a limit or straddle state are not subject to the obvious and catastrophic error rules. A limit or straddle state occurs when at least one side of the National Best Bid (“NBB”) or Offer (“NBO”) bid/ask is priced at a non-tradable level. Specifically, a straddle state exists when the NBB is below the lower price band while the NBO is inside the price band or when the NBO is above the upper price band and the NBB is within the band, while a limit state occurs when the NBO equals the lower price band (without crossing the NBB), or the NBB equals the upper price band (without crossing the NBO).

The Exchange adopted the Options Pilots to protect investors because when an underlying security is in a limit or straddle state, there will not be a reliable price for the security to serve as a benchmark for the price of the option. Specifically, the Exchange adopted Exchange Rule 521, Interpretation and Policy .01, because the application of the obvious and catastrophic error rules would be impracticable given the potential for lack of a reliable NBBO in the options market during limit and straddle states. When adjusting or busting a trade pursuant to the obvious error rule, the determination of theoretical value of a trade generally references the NBB (for erroneous sell transactions) or NBO (for erroneous buy transactions) just prior to the trade in question, and is therefore not reliable when at least one side of the NBBO is priced at a non-tradeable level, as is the case in limit and straddle states. In such a situation, determining theoretical value may often times be a very subjective rather than an objective determination and could give rise to additional uncertainty and confusion for investors. As a result, application of the obvious and catastrophic error rules would be impracticable given the lack of a reliable NBBO in the options market during limit and straddle states, and may produce undesirable effects or unanticipated consequences.

The Exchange adopted additional measures via other Options Pilot rules that are designed to protect investors during limit and straddle states. For example, the Exchange will reject market orders and not elect stop orders⁷ during a Limit Up-Limit Down state to ensure that only those orders with a limit price will be executed during a limit or straddle state given the uncertainty of market prices during such a state. Furthermore, the Exchange believes that eliminating the application of obvious error rules during a limit or straddle state eliminates the re-evaluation of a transaction executed during such a state that could potentially create an unreasonable adverse selection opportunity due to lack of a reliable reference price on one side of the market or another and discourage participants from providing liquidity during limit and straddle states, which is contrary to the goal in limiting participants' adverse selection with the application of the obvious error rule during normal trading states. For these reasons, the Exchange believes the Options Pilots are designed to add certainty on the options markets, which encourages more investors to participate in light of the changes associated with the Plan. The Plan was originally implemented on a pilot-basis in order to allow the public, the participating exchanges, and the Commission to assess the operation of the Plan and whether the Plan should be modified prior to approval on a permanent basis. As stated, the Exchange adopted the Option Pilots to coincide with this pilot; to continue the protections therein while the industry gains further experience operating the Plan.

In connection with the order approving the establishment of the obvious error pilot, as well as the extensions of the obvious error pilot, the Exchange committed to submit monthly data

⁷ This includes rules in connection with special handling for market orders, market-on-close orders, stop orders, and stock-option orders, as well as for certain electronic order handling features in a Limit Up-Limit Down state, the obvious error rules, and providing that the Exchange will not require Market-Makers to quote in series of options when the underlying security is in a Limit Up-Limit Down state.

regarding the program and to submit an overall analysis of the obvious error pilot in conjunction with the data submitted under the Plan and any other data as requested by the Commission. Pursuant to the Exchange's Form 1 Application for approval as a national securities exchange, approved by the Commission on December 20, 2018, each month since March of 2019, the Exchange committed to provide the Commission, and the public, a dataset containing the data for each straddle and limit state in optionable stocks that had at least one trade on the Exchange.⁸ The Exchange has continued to provide the Commission with this data on a monthly basis since March 2019. For each trade on the Exchange, the Exchange provides (a) the stock symbol, option symbol, time at the start of the straddle or limit state, an indicator for whether it is a straddle or limit state, and (b) for the trades on the Exchange, the executed volume, time-weighted quoted bid-ask spread, time-weighted average quoted depth at the bid, time-weighted average quoted depth at the offer, high execution price, low execution price, number of trades for which a request for review for error was received during straddle and limit states, an indicator variable for whether those options outlined above have a price change exceeding 30% during the underlying stock's limit or straddle state compared to the last available option price as reported by OPRA before the start of the limit or straddle state. In addition, to help evaluate the impact of the pilot program, the Exchange has provided to the Commission, and the public, assessments relating to the impact of the operation of the obvious error rules during limit and straddle states including: (1) an evaluation of the statistical and economic impact of limit and straddle states on liquidity and market quality in the options markets, and (2) an assessment of whether the lack of

⁸ See Securities Exchange Act Release No. 84891 (December 20, 2018), 83 FR 67421 (December 28, 2018)(In the Matter of the Application of MIAX EMERALD, LLC for Registration as a National Securities Exchange); see also MIAX Emerald Form 1 Application, Exhibit E, Section D(1)(v)(f); MIAX Emerald, LULD Pilot Reports, available at <https://www.miaxoptions.com/pilot-reports>.

obvious error rules in effect during the straddle and limit states are problematic. The Exchange has concluded that the Options Pilots do not negatively impact market quality during normal market conditions,⁹ and that there has been insufficient data to assess whether a lack of obvious error rules is problematic, however, the Exchange believes the continuation of Exchange Rule 521, Interpretation and Policy .01 functions to protect against any unanticipated consequences in the options markets during a limit or straddle state and add certainty on the options markets.

The Commission recently approved the Plan on a permanent basis (Amendment 18).¹⁰ In connection with this approval, the Exchange now proposes to amend Exchange Rule 521, Interpretation and Policy .01, and Exchange Rule 530 that currently implement the provisions of the Plan on a pilot basis to eliminate the pilot basis, which effectiveness expires on October 18, 2019, and to make such rules permanent. In its approval order to make the Plan permanent, the Commission recognized that, as a result of the Participants' and industry analysis of the Plan's operation, the Limit Up-Limit Down mechanism effectively addresses extraordinary market volatility. Indeed, the Plan benefits markets and market participants by helping to ensure orderly markets, but also, the Exchange believes, based on the data made available to the public and the Commission during the pilot period, that the obvious error pilot does not negatively impact market quality during normal market conditions.¹¹ Rather, the Exchange believes the obvious error pilot functions to protect against any unanticipated consequences in the options markets during a limit or straddle state and add certainty on the options markets. The Exchange also

⁹ See also MIAX Emerald, LULD Pilot Reports, available at <https://www.miaxoptions.com/pilot-reports>. During the most recent Review Period the Exchange did not receive any obvious error review requests for Limit-Up-Limit Down trades, and Limit Up-Limit Down trade volume accounted for nominal overall trade volume.

¹⁰ See *supra* note 3.

¹¹ See *supra* note 9.

believes the other Options Pilots rules provide additional measures designed to protect investors during limit and straddle states. For example, the Exchange will reject market orders and not elect stop orders¹² during a Limit Up-Limit Down state to ensure that only those orders with a limit price will be executed during a limit or straddle state given the uncertainty of market prices during such a state. This removes impediments to and perfects the mechanism of a free and open market and national market system by encouraging more investors to participate in light of the changes associated with the Plan. The Exchange believes that if approved on a permanent basis, the Options Pilots would permanently provide investors with the above-described additional certainty of market prices and mitigation of unanticipated consequences and unreasonable adverse selection risk during limit and straddle states.

The Exchange understands that the other national securities exchanges will also file similar proposals to make permanent their respective pilot programs. Since the Commission's approval of Amendment 18 allowing the Plan to operate on a permanent basis, the Exchange and other national securities exchanges have determined that no further amendments should be made to the Options Pilots;¹³ the current Options Pilots effectively address extraordinary market volatility, are reasonably designed to comply with the requirements of the Plan, facilitate compliance with the Plan and should now operate on a permanent basis, consistent with the Plan. The Exchange does not propose any substantive or additional changes to Exchange Rule 521, Interpretation and Policy .01, or Exchange Rule 530.

The Exchange also proposes to amend Exchange Rule 530 to remove the following sentence from the first paragraph: "The Exchange will provide the Commission with data and

¹² See supra note 7.

¹³ See Securities Exchange Act Release No. 85568 (April 9, 2019), 84 FR 15243 (April 15, 2019)(SR-EMERALD-2019-17).

analysis during the duration of this pilot as requested.” The purpose of this proposed change is to further align the Exchange’s Limit Up-Limit Down rules with competing options exchanges that have proposed rules consistent with this proposal. For example, Cboe Exchange, Inc. (“Cboe”) removed a similar provision in a 2015 rule filing¹⁴ and continued to provide the Commission, and the public, each month with a dataset containing the data for each straddle and limit state in optionable stocks that had at least one trade on the Exchange.

Additionally, the proposed changes would align the Exchange’s rules with the similar rule by Cboe.¹⁵

b. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.¹⁶ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁷ requirements that the rules of an exchange be 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 mechanism of a free and open market and a national

¹⁴ See Securities Exchange Act Release No. 74898 (May 7, 2015), 80 FR 27354 (May 13, 2015)(SR-CBOE-2015-039)(Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Nullification and Adjustment of Options Transactions Including Obvious Errors).

¹⁵ See Securities Exchange Act Release No. 87311 (October 15, 2019)(SR-CBOE-2019-049) (Notice of Filing of Amendment No. 2 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment Nos. 1 and 2, to Make Permanent Certain Options Market Rules That Are Linked to the Equity Market Plan to Address Extraordinary Market Volatility).

¹⁶ 15 U.S.C. 78f(b).

¹⁷ 15 U.S.C. 78f(b)(5).

market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁸ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that the proposed rule changes support the objectives of perfecting the mechanism of a free and open market and the national market system because they promote transparency and uniformity across markets concerning rules for options markets adopted to coincide with the Plan. The Exchange believes that eliminating the pilot basis for the Options Pilots and making such rules permanent facilitates compliance with the Plan by adding certainty to the markets during periods of market volatility, which has been approved and found by the Commission to be reasonably designed to prevent potentially harmful price volatility in NMS Stocks. It has been determined by the Commission that the Plan benefits markets and market participants by helping to ensure orderly markets, and, based on the data made available to the public and the Commission during the pilot period for Exchange Rule 521, Interpretation and Policy .01, the Plan does not negatively impact options market quality during normal market conditions. Rather, the Plan, as it is implemented under the obvious error pilot, functions to protect against any unanticipated consequences in the options markets during a limit or straddle state and add certainty on the options markets. During a limit or straddle state, determining theoretical value of an option may be a subjective rather than an objective determination given the lack of a reliable NBBO, which may create an unreasonable adverse selection opportunity and discourage participants from providing liquidity during limit and straddle states. Therefore, the Exchange believes eliminating obvious error review in such states would, in turn, eliminate

¹⁸

Id.

uncertainty and confusion for investors and benefit investors by encouraging more participation in light of the changes associated with the Plan. As stated, the Exchange believes the other Options Pilots rules provide additional measures designed to protect investors during limit and straddle states. For example, the Exchange will reject market orders and not elect stop orders¹⁹ during a Limit Up-Limit Down state to ensure that only those orders with a limit price will be executed during a limit or straddle state given the uncertainty of market prices during such a state.

Accordingly, the Exchange believes that making the Options Pilots permanent will further the goals of investor protection and fair and orderly markets as the rules effectively address extraordinary market volatility pursuant to the Plan.

Further, the Exchange believes that the proposed rule change to remove text in the first paragraph of Exchange Rule 530 regarding the Exchange providing the Commission with data and analysis during the duration of the pilot as requested supports the objectives of perfecting the mechanism of a free and open market and the national market system because it furthers aligns the Exchange's Limit Up-Limit Down rules with competing options exchanges.²⁰

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

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is necessary to reflect that the Plan no longer operates as a pilot and has been approved to operate on a permanent basis by the Commission. As such, Exchange Rule 521, Interpretation and Policy .01 and Exchange Rule 530, which implement protections in connection with the Plan, should be amended to operate on a permanent basis. The Exchange understands that the other national securities exchanges will also file similar proposals to make

¹⁹ See supra note 7.

²⁰ See supra note 14.

permanent their respective pilot programs. Thus, the proposed rule change will help to ensure consistency across market centers without implicating any competitive issues.

5. 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.

6. Extension of Time Period for Commission Action

Not Applicable

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

Pursuant to Section 19(b)(3)(A) of the Act²¹ and Rule 19b-4(f)(6)²² thereunder, the Exchange has designated this proposal as one that effects a change that: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.

The proposed rule change would not significantly affect the protection of investors or the public interest because it seeks to make permanent the protections provided by the Options Pilots, including additional certainty of market prices and mitigation of unanticipated consequences and unreasonable adverse selection risk during limit and straddle states. This proposed rule change would also not impose any significant burden on competition because the Exchange understands that the other national securities exchanges will also file similar proposals with the Commission to make permanent their respective pilot programs so that those rules may continue uninterrupted. The Exchange believes that the proposed rule change to remove text in the first

²¹ 15 U.S.C. 78s(b)(3)(A).

²² 17 CFR 240.19b-4(f)(6).

paragraph of Exchange Rule 530 regarding providing the Commission with data and analysis during the duration of the pilot as requested would not significantly affect the protection of investors or the public interest because it furthers aligns the Exchange's Limit Up-Limit Down rules with competing options exchanges.²³ Accordingly, the Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) of the Act²⁴ and paragraph (f)(6) of Rule 19b-4 thereunder.²⁵

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. Furthermore, a proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. As described above, the Exchange's proposed rule change is identical to the recent rule change by Cboe.²⁶ Accordingly, because the proposed rule change is based on the proposed rules of another Self-Regulatory Organization and thus does not introduce any new or novel regulatory issues, the Exchange has filed this rule filing as non-controversial under Section 19(b)(3)(A) of the Act²⁷ and paragraph (f)(6) of Rule 19b-4 thereunder.²⁸

²³ See supra note 14.

²⁴ 15 U.S.C. 78s(b)(3)(A).

²⁵ 17 CFR 240.19b-4.

²⁶ See supra note 15.

²⁷ 17 CFR 240.19b-4.

²⁸ 17 CFR 240.19b-4(f)(6).

The Exchange respectfully requests that the Commission waive the 30-day operative delay. Waiver of the 30-day operative delay would allow the Exchange to immediately make permanent the Options Pilots in connection with the Commission's recent decision to approve Amendment 18. Waiver of the operative delay is consistent with the protection of investors and the public interest because it seeks to make permanent the protections provided by the Options Pilot.

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.

8. Proposed Rule Change Based on rules of Another Self-Regulatory Organization or of the Commission

This proposed rule change is based on the rule of Cboe.²⁹

9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act

Not applicable.

10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Not applicable.

11. Exhibits

1. Completed notice of proposed rule change for publication in the Federal Register.
5. Text of the proposed rule change.

²⁹ See supra note 15.

EXHIBIT 1SECURITIES AND EXCHANGE COMMISSION
(Release No. 34- ; File No. SR-EMERALD-2019-34)

October __, 2019

Self-Regulatory Organizations: Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by MIAX Emerald, LLC to Amend Exchange Rule 521, Nullification and Adjustment of Options Transactions Including Obvious Errors, Interpretation and Policy .01, and Exchange Rule 530, Limit Up-Limit Down

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on October 16, 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, 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 Exchange Rule 521, Nullification and Adjustment of Options Transactions Including Obvious Errors, Interpretation and Policy .01, and Exchange Rule 530, Limit Up-Limit Down, to make permanent certain options market rules that are linked to the equity market Plan to Address Extraordinary Market Volatility.

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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 purpose of the proposed rule change is to make permanent certain options market rules in connection with the equity market Plan to Address Extraordinary Market Volatility (the “Limit Up-Limit Down Plan” or the “Plan”). This change is being proposed in connection with the recently approved amendment to the Limit Up-Limit Down Plan that allows the Plan to continue to operate on a permanent basis (“Amendment 18”).³

In an attempt to address extraordinary market volatility in NMS Stock, and, in particular, events like the severe volatility on May 6, 2010, U.S. national securities exchanges and the Financial Industry Regulatory Authority, Inc. (collectively, “Participants”) drafted the Plan pursuant to Rule 608 of Regulation NMS and under the Act.⁴ On May 31, 2012, the Commission approved the Plan, as amended, on a one-year pilot basis.⁵ Though the Plan was primarily designed

³ See Securities Exchange Act Release No. 85623 (April 11, 2019), 84 FR 16086 (April 17, 2019) (Order Approving Amendment No. 18).

⁴ See Securities Exchange Act Release No. 64547 (May 25, 2011), 76 FR 31647 (June 1, 2011)(File No. 4-631).

⁵ See Securities and Exchange Act Release No. 67091 (May 31, 2012) 77 FR 33498 (June 6, 2012).

for equity markets, the Exchange believed it would, indirectly, potentially impact the options markets as well. Thus, the Exchange has previously adopted and amended Exchange Rule 521, Interpretation and Policy .01, and Exchange Rule 530, to ensure the option markets were not harmed as a result of the Plan's implementation and implemented such rules on a pilot basis that has coincided with the pilot period for the Plan (collectively, the "Options Pilots").⁶ Exchange Rule 530 essentially serves as a roadmap for the Exchange's universal changes due to the implementation of the Plan and provides for trading halts whenever a market-wide trading halt is initiated due to extraordinary market conditions pursuant to the Plan. Exchange Rule 521, Interpretation and Policy .01, provides that transactions executed during a limit or straddle state are not subject to the obvious and catastrophic error rules. A limit or straddle state occurs when at least one side of the National Best Bid ("NBB") or Offer ("NBO") bid/ask is priced at a non-tradable level. Specifically, a straddle state exists when the NBB is below the lower price band while the NBO is inside the price band or when the NBO is above the upper price band and the NBB is within the band, while a limit state occurs when the NBO equals the lower price band (without crossing the NBB), or the NBB equals the upper price band (without crossing the NBO).

The Exchange adopted the Options Pilots to protect investors because when an underlying security is in a limit or straddle state, there will not be a reliable price for the security to serve as a benchmark for the price of the option. Specifically, the Exchange adopted Exchange Rule 521, Interpretation and Policy .01, because the application of the obvious and catastrophic error rules would be impracticable given the potential for lack of a reliable NBBO in the options market during limit and straddle states. When adjusting or busting a trade pursuant to the obvious error rule, the determination of theoretical value of a trade generally references the NBB (for erroneous sell

⁶ See Securities Exchange Act Release No. 85568 (April 9, 2019), 84 FR 15243 (April 15, 2019)(SR-EMERALD-2019-17).

transactions) or NBO (for erroneous buy transactions) just prior to the trade in question, and is therefore not reliable when at least one side of the NBBO is priced at a non-tradeable level, as is the case in limit and straddle states. In such a situation, determining theoretical value may often times be a very subjective rather than an objective determination and could give rise to additional uncertainty and confusion for investors. As a result, application of the obvious and catastrophic error rules would be impracticable given the lack of a reliable NBBO in the options market during limit and straddle states, and may produce undesirable effects or unanticipated consequences.

The Exchange adopted additional measures via other Options Pilot rules that are designed to protect investors during limit and straddle states. For example, the Exchange will reject market orders and not elect stop orders⁷ during a Limit Up-Limit Down state to ensure that only those orders with a limit price will be executed during a limit or straddle state given the uncertainty of market prices during such a state. Furthermore, the Exchange believes that eliminating the application of obvious error rules during a limit or straddle state eliminates the re-evaluation of a transaction executed during such a state that could potentially create an unreasonable adverse selection opportunity due to lack of a reliable reference price on one side of the market or another and discourage participants from providing liquidity during limit and straddle states, which is contrary to the goal in limiting participants' adverse selection with the application of the obvious error rule during normal trading states. For these reasons, the Exchange believes the Options Pilots are designed to add certainty on the options markets, which encourages more investors to participate in light of the changes associated with the Plan. The Plan was originally implemented on a pilot-basis in order to allow the public, the

⁷ This includes rules in connection with special handling for market orders, market-on-close orders, stop orders, and stock-option orders, as well as for certain electronic order handling features in a Limit Up-Limit Down state, the obvious error rules, and providing that the Exchange will not require Market-Makers to quote in series of options when the underlying security is in a Limit Up-Limit Down state.

participating exchanges, and the Commission to assess the operation of the Plan and whether the Plan should be modified prior to approval on a permanent basis. As stated, the Exchange adopted the Option Pilots to coincide with this pilot; to continue the protections therein while the industry gains further experience operating the Plan.

In connection with the order approving the establishment of the obvious error pilot, as well as the extensions of the obvious error pilot, the Exchange committed to submit monthly data regarding the program and to submit an overall analysis of the obvious error pilot in conjunction with the data submitted under the Plan and any other data as requested by the Commission. Pursuant to the Exchange's Form 1 Application for approval as a national securities exchange, approved by the Commission on December 20, 2018, each month since March of 2019, the Exchange committed to provide the Commission, and the public, a dataset containing the data for each straddle and limit state in optionable stocks that had at least one trade on the Exchange.⁸ The Exchange has continued to provide the Commission with this data on a monthly basis since March 2019. For each trade on the Exchange, the Exchange provides (a) the stock symbol, option symbol, time at the start of the straddle or limit state, an indicator for whether it is a straddle or limit state, and (b) for the trades on the Exchange, the executed volume, time-weighted quoted bid-ask spread, time-weighted average quoted depth at the bid, time-weighted average quoted depth at the offer, high execution price, low execution price, number of trades for which a request for review for error was received during straddle and limit states, an indicator variable for whether those options outlined above have a price change exceeding 30% during the underlying stock's limit or straddle

⁸ See Securities Exchange Act Release No. 84891 (December 20, 2018), 83 FR 67421 (December 28, 2018)(In the Matter of the Application of MIA X EMERALD, LLC for Registration as a National Securities Exchange); see also MIA X Emerald Form 1 Application, Exhibit E, Section D(1)(v)(f); MIA X Emerald, LULD Pilot Reports, available at <https://www.miaoptions.com/pilot-reports>.

state compared to the last available option price as reported by OPRA before the start of the limit or straddle state. In addition, to help evaluate the impact of the pilot program, the Exchange has provided to the Commission, and the public, assessments relating to the impact of the operation of the obvious error rules during limit and straddle states including: (1) an evaluation of the statistical and economic impact of limit and straddle states on liquidity and market quality in the options markets, and (2) an assessment of whether the lack of obvious error rules in effect during the straddle and limit states are problematic. The Exchange has concluded that the Options Pilots do not negatively impact market quality during normal market conditions,⁹ and that there has been insufficient data to assess whether a lack of obvious error rules is problematic, however, the Exchange believes the continuation of Exchange Rule 521, Interpretation and Policy .01 functions to protect against any unanticipated consequences in the options markets during a limit or straddle state and add certainty on the options markets.

The Commission recently approved the Plan on a permanent basis (Amendment 18).¹⁰ In connection with this approval, the Exchange now proposes to amend Exchange Rule 521, Interpretation and Policy .01, and Exchange Rule 530 that currently implement the provisions of the Plan on a pilot basis to eliminate the pilot basis, which effectiveness expires on October 18, 2019, and to make such rules permanent. In its approval order to make the Plan permanent, the Commission recognized that, as a result of the Participants' and industry analysis of the Plan's operation, the Limit Up-Limit Down mechanism effectively addresses extraordinary market volatility. Indeed, the Plan benefits markets and market participants by helping to ensure orderly

⁹ See also MIAX Emerald, LULD Pilot Reports, available at <https://www.miaxoptions.com/pilot-reports>. During the most recent Review Period the Exchange did not receive any obvious error review requests for Limit-Up-Limit Down trades, and Limit Up-Limit Down trade volume accounted for nominal overall trade volume.

¹⁰ See *supra* note 3.

markets, but also, the Exchange believes, based on the data made available to the public and the Commission during the pilot period, that the obvious error pilot does not negatively impact market quality during normal market conditions.¹¹ Rather, the Exchange believes the obvious error pilot functions to protect against any unanticipated consequences in the options markets during a limit or straddle state and add certainty on the options markets. The Exchange also believes the other Options Pilots rules provide additional measures designed to protect investors during limit and straddle states. For example, the Exchange will reject market orders and not elect stop orders¹² during a Limit Up-Limit Down state to ensure that only those orders with a limit price will be executed during a limit or straddle state given the uncertainty of market prices during such a state. This removes impediments to and perfects the mechanism of a free and open market and national market system by encouraging more investors to participate in light of the changes associated with the Plan. The Exchange believes that if approved on a permanent basis, the Options Pilots would permanently provide investors with the above-described additional certainty of market prices and mitigation of unanticipated consequences and unreasonable adverse selection risk during limit and straddle states.

The Exchange understands that the other national securities exchanges will also file similar proposals to make permanent their respective pilot programs. Since the Commission's approval of Amendment 18 allowing the Plan to operate on a permanent basis, the Exchange and other national securities exchanges have determined that no further amendments should be made to the Options Pilots;¹³ the current Options Pilots effectively address extraordinary market volatility, are reasonably designed to comply with the requirements of the Plan, facilitate

¹¹ See supra note 9.

¹² See supra note 7.

¹³ See Securities Exchange Act Release No. 85568 (April 9, 2019), 84 FR 15243 (April 15, 2019)(SR-EMERALD-2019-17).

compliance with the Plan and should now operate on a permanent basis, consistent with the Plan. The Exchange does not propose any substantive or additional changes to Exchange Rule 521, Interpretation and Policy .01, or Exchange Rule 530.

The Exchange also proposes to amend Exchange Rule 530 to remove the following sentence from the first paragraph: “The Exchange will provide the Commission with data and analysis during the duration of this pilot as requested.” The purpose of this proposed change is to further align the Exchange’s Limit Up-Limit Down rules with competing options exchanges that have proposed rules consistent with this proposal. For example, Cboe Exchange, Inc. (“Cboe”) removed a similar provision in a 2015 rule filing¹⁴ and continued to provide the Commission, and the public, each month with a dataset containing the data for each straddle and limit state in optionable stocks that had at least one trade on the Exchange.

Additionally, the proposed changes would align the Exchange’s rules with the similar rule by Cboe.¹⁵

2. Statutory Basis

MIAX Emerald believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.¹⁶ Specifically, the Exchange believes the proposed rule change is

¹⁴ See Securities Exchange Act Release No. 74898 (May 7, 2015), 80 FR 27354 (May 13, 2015)(SR-CBOE-2015-039)(Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Nullification and Adjustment of Options Transactions Including Obvious Errors).

¹⁵ See Securities Exchange Act Release No. 87311 (October 15, 2019)(SR-CBOE-2019-049) (Notice of Filing of Amendment No. 2 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment Nos. 1 and 2, to Make Permanent Certain Options Market Rules That Are Linked to the Equity Market Plan to Address Extraordinary Market Volatility).

¹⁶ 15 U.S.C. 78f(b).

consistent with the Section 6(b)(5)¹⁷ requirements that the rules of an exchange be 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 mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁸ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that the proposed rule changes support the objectives of perfecting the mechanism of a free and open market and the national market system because they promote transparency and uniformity across markets concerning rules for options markets adopted to coincide with the Plan. The Exchange believes that eliminating the pilot basis for the Options Pilots and making such rules permanent facilitates compliance with the Plan by adding certainty to the markets during periods of market volatility, which has been approved and found by the Commission to be reasonably designed to prevent potentially harmful price volatility in NMS Stocks. It has been determined by the Commission that the Plan benefits markets and market participants by helping to ensure orderly markets, and, based on the data made available to the public and the Commission during the pilot period for Exchange Rule 521, Interpretation and Policy .01, the Plan does not negatively impact options market quality during normal market conditions. Rather, the Plan, as it is implemented under the obvious error pilot, functions to protect against any unanticipated consequences in the options markets during a limit or straddle

¹⁷ 15 U.S.C. 78f(b)(5).

¹⁸ Id.

state and add certainty on the options markets. During a limit or straddle state, determining theoretical value of an option may be a subjective rather than an objective determination given the lack of a reliable NBBO, which may create an unreasonable adverse selection opportunity and discourage participants from providing liquidity during limit and straddle states. Therefore, the Exchange believes eliminating obvious error review in such states would, in turn, eliminate uncertainty and confusion for investors and benefit investors by encouraging more participation in light of the changes associated with the Plan. As stated, the Exchange believes the other Options Pilots rules provide additional measures designed to protect investors during limit and straddle states. For example, the Exchange will reject market orders and not elect stop orders¹⁹ during a Limit Up-Limit Down state to ensure that only those orders with a limit price will be executed during a limit or straddle state given the uncertainty of market prices during such a state. Accordingly, the Exchange believes that making the Options Pilots permanent will further the goals of investor protection and fair and orderly markets as the rules effectively address extraordinary market volatility pursuant to the Plan.

Further, the Exchange believes that the proposed rule change to remove text in the first paragraph of Exchange Rule 530 regarding the Exchange providing the Commission with data and analysis during the duration of the pilot as requested supports the objectives of perfecting the mechanism of a free and open market and the national market system because it furthers aligns the Exchange's Limit Up-Limit Down rules with competing options exchanges.²⁰

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

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The

¹⁹ See supra note 7.

²⁰ See supra note 14.

proposed rule change is necessary to reflect that the Plan no longer operates as a pilot and has been approved to operate on a permanent basis by the Commission. As such, Exchange Rule 521, Interpretation and Policy .01 and Exchange Rule 530, which implement protections in connection with the Plan, should be amended to operate on a permanent basis. The Exchange understands that the other national securities exchanges will also file similar proposals to make permanent their respective pilot programs. Thus, the proposed rule change will help to ensure consistency across market centers without implicating any competitive issues.

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 Act²¹ and Rule 19b-4(f)(6)²² thereunder.

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

²¹ 15 U.S.C. 78s(b)(3)(A).

²² 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.

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 e-mail [to rule-comments@sec.gov](mailto:to-rule-comments@sec.gov). Please include File Number SR-EMERALD-2019-34 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-EMERALD-2019-34. This file number should be included on the subject line if e-mail 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 Web site (<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; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR-EMERALD-2019-34 and should be submitted on or before [insert date 21 days from publication in the Federal Register]. For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²³

Vanessa Countryman
Secretary

²³ 17 CFR 200.30-3(a)(12).

EXHIBIT 5

New text is underlined;
Deleted text is in [brackets]

MIAX EMERALD, LLC

Rule 521. Nullification and Adjustment of Options Transactions Including Obvious Errors

The Exchange may nullify a transaction or adjust the execution price of a transaction in accordance with this Rule. However, the determination as to whether a trade was executed at an erroneous price may be made by mutual agreement of the affected parties to a particular transaction. A trade may be nullified or adjusted on the terms that all parties to a particular transaction agree, provided, however, that such agreement to nullify or adjust must be conveyed to the Exchange in a manner prescribed by the Exchange prior to 8:30 a.m. Eastern Time on the first trading day following the execution. It is considered conduct inconsistent with just and equitable principles of trade for any Member to use the mutual adjustment process to circumvent any applicable Exchange rule, the Act or any of the rules and regulations thereunder.

(a) - (l) No Change.

Interpretations and Policies:

.01 **Limit Up-Limit Down State.** [During a pilot period that expires at the close of business on October 18, 2019, a]An execution will not be subject to review as an Obvious Error or Catastrophic Error pursuant to paragraph (c) or (d) of this Rule if it occurred while the underlying security was in a “Limit State” or “Straddle State,” as defined in the Regulation NMS Plan to Address Extraordinary Market Volatility (the “Limit Up-Limit Down Plan” or the “Plan”). Nothing in this provision shall prevent such execution from being reviewed on an Official’s own motion pursuant to subparagraph (c)(3) of this Rule, or a bust or adjust pursuant to paragraphs (e) through (k) of this Rule.

Rule 530. Limit Up-Limit Down

[Paragraphs (a)-(j) of this Rule shall be in effect during a pilot period that expires at the close of business on October 18, 2019. The Exchange will provide the Commission with data and analysis during the duration of this pilot as requested.]This Rule establishes procedures to address extraordinary volatility in NMS Stocks (as defined below) and outlines MIAX Emerald’s Limit Up-Limit Down processing.

(a) - (j) No Change.
