

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-100475; File No. SR-EMERALD-2024-16)

July 9, 2024

Self-Regulatory Organizations; MIAX Emerald, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend its Rules Relating to the Continuing Education for Registered Persons as Provided Under Exchange Rule 1903

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 June 28, 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 and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend Interpretation and Policy .01 to Exchange Rule 1903, Continuing Education, to reopen the period by which eligible Members³ who participate in the Maintaining Qualifications Program (“MQP”) will be able to complete their prescribed 2022 and 2023 continuing education content.

The text of the proposed rule change is available on the Exchange’s website at <https://www.miaxglobal.com/markets/us-options/emerald-options/rule-filings>, 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.

³ The term “Member” means an individual or organization that is registered with the Exchange pursuant to Chapter II of the Exchange Rules for purposes of trading on the Exchange as an “Electronic Exchange Member” or “Market Maker.” See Exchange Rule 100.

II. Self-Regulatory Organization’s Statement of the Purpose of, and the 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 IV 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 to amend Interpretation and Policy .01 to Exchange Rule 1903, Continuing Education, to provide eligible Members another opportunity to elect to reopen the period by which certain participants in the MQP will be able to complete their prescribed 2022 and 2023 continuing education content.

In 2021, the Financial Industry Regulatory Authority, Inc. (“FINRA”) implemented rule changes, which amended its Continuing Education (“CE”) Program requirements to, among other things, provide eligible individuals who terminate any of their representative or principal registration categories the option of maintaining their qualification for any terminated registration categories by completing annual CE through a new program, the MQP.⁴ Under FINRA Rule 1240.01, the MQP designated a look-back provision that, subject to specified

⁴ See Securities Exchange Act Release No. 93097 (September 21, 2021), 86 FR 53358 (September 27, 2021) (Order Approving File No. SR-FINRA-2021-015). Other exchanges, including the Exchange, subsequently filed copycat rule filings to align their continuing education rules with those of FINRA. See Securities Exchange Act Release No. 95177 (June 29, 2022), 87 FR 40324 (July 6, 2022) (SR-EMERALD-2022-22) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 1900, Registration Requirements, Exchange Rule 1903, Continuing Education Requirements, and Exchange Rule 1904, Electronic Filing Requirements for Uniform Forms).

conditions, extended the option to participate in the MQP to individuals who: (1) were registered as a representative or principal within two years immediately prior to March 15, 2022 (the implementation date of the MQP); and (2) individuals who were participating in the Financial Services Affiliate Waiver Program (“FSAWP”)⁵ under FINRA Rule 1210.09 (Waiver of Examinations for Individuals Working for a Financial Services Industry Affiliate of a Member) immediately prior to March 15, 2022 (collectively, “Look-Back Individuals”).

In 2023, FINRA amended FINRA Rule 1240.01, to provide Look-Back Individuals a second opportunity to elect to participate in the MQP (the “FINRA Second Enrollment Period”).⁶ The proposed rule change required that Look-Back Individuals who elect to participate in the MQP during the FINRA Second Enrollment Period complete any prescribed 2022 and 2023 MQP content by March 31, 2024. Look-Back Individuals who are enrolled in the MQP, similar to other MQP participants, are able to complete any prescribed CE and renew their annual MQP participation through their FINRA Financial Professional Gateway (“FinPro”) accounts.

In response to FINRA’s rule changes and to facilitate compliance with the Exchange’s CE Program requirements by members of multiple exchanges, the Exchange implemented rule changes to align with FINRA’s CE Program.⁷ Such rules, among other things, provide eligible individuals who terminate any of their representative or principal registrations the option of

⁵ The FSAWP is a waiver program for eligible individuals who have left a member firm to work for a foreign or domestic financial services affiliate of a member firm. The Exchange stopped accepting new participants for the FSAWP beginning on July 1, 2022; however, individuals who were already participating in the FSAWP prior to that date had the option of continuing in the FSAWP.

⁶ See Securities Exchange Act Release No. 97184 (Mar. 22, 2023), 88 FR 18359 (Mar. 28, 2023) (SR-FINRA-2023-005) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend FINRA Rule 1240.01 To Provide Eligible Individuals Another Opportunity to Elect to Participate in the Maintaining Qualifications Program)

⁷ See Exchange Rules 1900, 1903, and 1904.

maintaining their qualification for any of the terminated registrations by completing CE through the MQP. Further, Exchange Rule 1903, Interpretation and Policy .01, includes a look-back provision that, subject to specified conditions, extends the option for maintaining qualifications following a registration category termination to (i) individuals who have been registered as a representative or principal within two years immediately preceding July 1, 2022, and (ii) individuals who have been participants of the FSAWP immediately preceding July 1, 2022 implementation (i.e., Look-Back Individuals).

Exchange Rule 1903 also provided Look-Back Individuals with a second enrollment period, between September 18, 2023, and December 31, 2023 (the “Exchange Second Enrollment Period”). Exchange Rule 1903, Interpretation and Policy .01, requires that Look-Back Individuals who elect to participate in the MQP during the Exchange Second Enrollment Period complete any prescribed 2022 and 2023 MQP content by March 31, 2024.⁸

FINRA recently submitted a proposal related to its CE Program (the “FINRA Rule Change”).⁹ The proposal set forth changes to FINRA Rule 1240.01, to provide Look-Back Individuals enrolled in the MQP in both 2022 and 2023 who did not complete their prescribed 2022 and 2023 CE content as of March 31, 2024, the opportunity to complete such content between May 22, 2024, and July 1, 2024, to be eligible to continue their participation in the

⁸ The Exchange determined to treat the individuals who enrolled during the first period (preceding July 1, 2022) the same as those who enrolled during the second period (between September 18, 2023, and December 31, 2023) for purposes of the March 31, 2024, deadline for completion of prescribed 2022 and 2023 CE content. This is because those who had enrolled in the MQP during the first period satisfied all of the eligibility criteria for enrollment during the second period and would have been able to complete their prescribed CE content by March 31, 2024, had they chosen to enroll during the second period instead of enrolling during the first period.

⁹ See Securities Exchange Act Release No. 100067 (May 6, 2024), 89 FR 40520 (May 10, 2024) (SR-FINRA-2024-006)(Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend FINRA Rule 1240.01 To Reopen the Period by Which Certain Participants in the Maintaining Qualifications Program May Complete Their Prescribed Continuing Education Content).

MQP.¹⁰ In addition, the proposed rule change provides that any such individuals who will have completed their prescribed 2022 and 2023 CE content between March 31, 2024, and May 22, 2024, will be deemed to have completed such content by July 1, 2024, for purposes of the rule.

In the FINRA Rule Change, FINRA noted that it sent multiple reminders, including a March 16, 2024 email, to Look-Back Individuals who had enrolled in the MQP but had not completed their prescribed CE to remind them of the March 31, 2024 deadline. In the FINRA Rule Change, FINRA further noted that in the week leading up to the deadline, FINRA noticed that several thousand of those individuals were renewing their participation in the MQP for 2024 instead of completing their prescribed CE.¹¹ Per the FINRA Rule Change, FINRA believes that some of those individuals may have been confused by the layout of their FinPro accounts. Specifically, if they selected the 2024 renewal banner, which was prominently displayed on their FinPro accounts, and completed the renewal process, they would not have been automatically redirected to complete any prescribed CE. Therefore, individuals may have inadvertently assumed that completion of the renewal process alone would have satisfied all of the necessary requirements to continue their participation in the MQP.¹²

¹⁰ This would include any Look-Back Individuals who were still in the process of completing their prescribed CE content as of March 31, 2024.

¹¹ Look-Back Individuals who enrolled in the MQP have until December 31, 2024, to renew their participation in the MQP for 2024, provided that they complete their prescribed CE by the stated deadline.

¹² According to FINRA, a number of these individuals contacted FINRA to confirm whether they were required to satisfy any additional requirements other than completing the 2024 renewal. To provide FINRA with additional time to assess the situation, FINRA temporarily changed the March 31, 2024, due date for CE completion in its systems. This may have compounded the confusion because any Look-Back Individual who may have logged into their FinPro account during this time would have seen an interim CE completion date and would have been able to complete their prescribed CE content based on that interim CE completion date.

For similar reasons and to facilitate compliance with the Exchange’s CE Program requirements by members of multiple exchanges, the Exchange is also proposing to amend its rules (i.e., Exchange Rule 1903, Interpretation and Policy .01) to provide Look-Back Individuals enrolled in the MQP in both 2022 and 2023 who did not complete their prescribed 2022 and 2023 CE content as of March 31, 2024, the opportunity to complete such content between the effective date of this filing, and July 1, 2024, to be eligible to continue their participation in the MQP.¹³ In addition, the proposed rule change provides that any such individuals who will have completed their prescribed 2022 and 2023 CE content between March 31, 2024, and the effective date of this filing, will be deemed to have completed such content by July 1, 2024, for purposes of the rule.

2. 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.¹⁴ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁵ 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

¹³ This would include any Look-Back Individuals who were still in the process of completing their prescribed CE content as of March 31, 2024.

¹⁴ 15 U.S.C. 78f(b).

¹⁵ 15 U.S.C. 78f(b)(5).

Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁶ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange's rule proposal is intended to harmonize the Exchange's supervision rules, specifically with respect to the continuing education requirements with those of FINRA, on which they are based. Consequently, the proposed change will conform the Exchange's rules to changes made to corresponding FINRA rules, thus promoting application of consistent regulatory standards with respect to rules that FINRA enforces pursuant to its regulatory services agreement with the Exchange.

The Exchange believes that reopening the period by which Look-Back Individuals will be able to complete their prescribed 2022 and 2023 CE content is appropriate under the circumstances. As FINRA noted in the FINRA Rule Change, Look-Back Individuals who had enrolled in the MQP in 2022 and 2023 but had not completed their prescribed 2022 and 2023 CE content by the March 31, 2024 deadline may have been confused, as described above. The Exchange believes that participation in the MQP reduces unnecessary impediments to requalification for these individuals without diminishing investor protection. In addition, the proposed rule change is consistent with other goals, such as the promotion of diversity and inclusion in the securities industry by attracting and retaining a broader and diverse group of professionals. The MQP also allows the industry to retain expertise from skilled individuals, providing investors with the advantage of greater experience among the individuals working in the industry. The Exchange believes that reopening the CE completion period, as proposed, will further these goals and objectives.

¹⁶ Id.

Further, the Exchange believes the proposed amendments reduce the possibility of a regulatory gap between Exchange and FINRA rules, providing more uniform standards across the securities industry. The Exchange believes that the proposed rule change will bring consistency and uniformity with FINRA's recently amended CE Program, which will, in turn, assist members and their associated persons in complying with these rules and improve regulatory efficiency. The proposed rule changes make ministerial changes to the Exchange's CE rules to align them with the CE rules of FINRA, in order to prevent unnecessary regulatory burdens and to promote efficient administration of the rules.

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

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

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

Written comments were neither solicited nor received.

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

Because the 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 from the date on which it was filed, or such shorter time

as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁷ and Rule 19b-4(f)(6) thereunder.¹⁸

A proposed rule change filed under Rule 19b-4(f)(6)¹⁹ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),²⁰ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative upon filing. The Exchange has stated that a waiver of the operative delay would allow the Exchange to implement the proposed changes to its CE rules without delay, thereby eliminating the possibility of a significant regulatory gap between the FINRA and the Exchange rules. The Exchange has also stated that a waiver would provide more uniform standards across the securities industry and help to avoid confusion for Exchange members that are also FINRA members. The Exchange believes a waiver would also provide immediately clarity to impacted individuals, thus minimizing the potential for confusion regarding the time frames for satisfying continuing education content in order to maintain eligibility to participate in the continuing education program. For these reasons, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore,

¹⁷ 15 U.S.C. 78s(b)(3)(A).

¹⁸ 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, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

¹⁹ 17 CFR 240.19b-4(f)(6).

²⁰ 17 CFR 240.19b-4(f)(6)(iii).

the Commission hereby waives the operative delay and designates the proposal operative upon filing.²¹

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)²² of the Act to determine whether the proposed rule change 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 (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-EMERALD-2024-16 on the subject line.

Paper Comments:

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

All submissions should refer to file number SR-EMERALD-2024-16. This file number should be included on the subject line if email is used. To help the Commission process and review

²¹ For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

²² 15 U.S.C. 78s(b)(2)(B).

your comments more efficiently, please use only one method. The Commission will post all comments on the Commission’s internet website (<https://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. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-EMERALD-2024-16 and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²³

J. Matthew DeLesDernier,

Deputy Secretary.

²³ 17 CFR 200.30-3(a)(12).