

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-100855; File No. SR-EMERALD-2024-25)

August 28, 2024

Self-Regulatory Organizations; MIAX Emerald, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Describe the Access Methods to the Exchange's Testing Systems Environment and Discontinue One Access Method

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 August 22, 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 is filing a proposal to describe the two methods to access the Exchange's optional testing systems environment, establish a third method to access the testing systems environment, and establish the timeline and process by which one of the three access methods would be discontinued.

The text of the proposed rule change is available on the Exchange's website at <https://www.miaxglobal.com/markets/us-options/all-options-exchanges/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.

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

The Exchange submits this filing to describe the two methods to access the Exchange’s optional testing systems environment, establish a third method to access the testing systems environment, and establish the timeline and process by which the 1 Gigabit (“Gb”) or 10Gb ultra-low latency (“ULL”) production (i.e., live trading) connection access method described below would be discontinued.

The testing systems environment is a virtual trading system environment for Members³ and non-Members to test (i) upcoming Exchange software and code releases, (ii) product enhancements, and (iii) firm-developed software, prior to implementation in the Exchange’s production (e.g., live trading) environment. Further, the testing systems environment allows unlimited testing of existing functionality, such as order types, order entry, order management, order throughput, acknowledgements, risk settings, mass cancelations, and purge requests. The

³ The term “Member” means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are deemed “members” under the Exchange Act. See Exchange Rule 100.

testing systems environment is built to closely approximate the production environment to enable users the ability to test their systems and mimics the real life trading environment.⁴

Existing Two Access Methods

There are two methods by which Members and non-Members may access the Exchange's testing systems environment. One, Members and non-Members may access the Exchange's testing systems environment via a virtual private network ("VPN") that operates over the internet and provides site-to-site access. VPN access is provided for free to all Members and non-Members. Two, access is also provided through the production connections for each 1Gb⁵ or 10Gb ULL connection for the applicable fee⁶ for such connection and no additional charge. These 1Gb and 10Gb ULL connections provide access to the Exchange's production environment (i.e., live trading) and allow the receipt of proprietary real-time market data.

Members and non-Members that utilize a VPN or 1Gb production connection to access the testing systems environment of the Exchange are also able to access the testing systems environments of each of the Exchange's affiliated options markets – MIAX Sapphire, LLC ("MIAX Sapphire"), MIAX PEARL, LLC⁷ ("MIAX Pearl Options"), and Miami International Securities Exchange, LLC ("MIAX"). Also, unlike VPN and 1Gb, 10Gb ULL connections only provide access the Exchange's testing systems environment and not those of its affiliated options

⁴ Business continuity and disaster recovery testing is performed separately and not within the testing systems environment that is the subject of this filing.

⁵ Like VPN access, the 1Gb connection will allow Members and non-Members to reach all testing systems environments of the Exchange's affiliated options markets.

⁶ See MIAX Emerald Fee Schedule, Sections 5)a)-b) for the fees for 1Gb and 10Gb ULL production connectivity.

⁷ All references to "MIAX PEARL" in this filing are to the options trading facility of MIAX PEARL, LLC, referred to herein as "MIAX Pearl Options." Members and non-Members that choose to utilize the testing systems environment of MIAX Pearl Equities, the equities trading facility of MIAX PEARL, LLC, must utilize a separate dedicated cross connect as MIAX Pearl Equities' testing systems environment operates on a separate network from the affiliated options markets.

markets. This is because of the nature of those connections, which are utilized to access the Exchange only, not just for testing, but for other Exchange specific items, such as access the Exchange’s production environment and for the receipt of proprietary Exchange market data.

Proposed Third Access Method

The Exchange proposes to establish a third method by which Members and non-Members may access the options testing systems environment. This third method is via a dedicated cross connection that will allow Members and non-Members to access the testing systems environment and would be available as either a 1Gb or 10Gb connection.⁸ Like access via a VPN and a 1Gb production connection, the dedicated cross connection would also provide access to the testing systems environment of the Exchange’s affiliated options markets – MIAX Sapphire, MIAX PEARL, LLC, and MIAX. The proposed dedicated cross connect to the testing systems environment would not, however, provide access to any of the production environments (i.e., live trading) of the Exchange or its affiliates, or allow the receipt of proprietary real-time market data for which each Member or non-Member may subscribe.

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Members and non-Members that access the testing systems environment through any one of the available access methods, including the proposed dedicated cross connection, receive functionally the same testing experience. Each Member or non-Member is free to decide how to

⁸ The Exchange notes that other exchange families offer a similar dedicated connection to their testing environment for their members and non-members. See, e.g., Nasdaq Options Test Facility (NTF) Abstract, Version 1.4.4 (March 2024), available at https://www.nasdaq.com/Nasdaq_Test_Facility_NTF_Guide (last visited July 16, 2024) (“...the Nasdaq Test Facility...where market participants can test their trading applications with the INET trading system. The NTF environment allows members to test sending and executing quotes and orders offered by our six options exchanges...”); see also Securities Exchange Act Release No. 100442 (June 27, 2024), 89 FR 55296 (July 3, 2024) (SR-CboeBZX-2024-058) (“...the Exchange also offers corresponding ports which provide Members and non-Members access to the Exchange’s certification environment to test proprietary systems and applications...The certification environment facilitates testing using replicas of the Exchange’s production environment process configurations which provide for a robust and realistic testing experience...”).

access the testing systems environment based on their own needs and trading architecture. Again, use of the testing systems environment is entirely optional and no Member or non-Member is required by rule or regulation to make use of the testing systems environment.⁹ Regardless of access method, all Members and non-Members are provided the same testing systems environment experience and are able to perform all of the same functions.

Phased Out of Production Connections

The Exchange will phase out the ability to connect to the testing systems environment via the existing 1Gb and 10Gb ULL production connections over the next 6 to 12 months. The Exchange will issue an alert notifying market participants of the anticipated timeline by which it will phase out access to the testing systems environment via 1Gb and 10Gb ULL production connections. During this phase out period, Members and non-Members that use a 1Gb or 10Gb ULL production connection to access the testing systems environment would continue to be able to do so. At the end of this period, Members and non-Members that currently elect to access the Exchange's testing systems environment via a 1Gb or 10Gb ULL connection that seek to continue to access the Exchange's testing systems environment would be required to transfer their access to one of the two remaining access methods, a VPN for free or by subscribing to a dedicated cross connection for an amount that is expected to be less than the current fee for a 1Gb or 10Gb ULL production connection.¹⁰

⁹ See supra note 4.

¹⁰ The Exchange will submit a separate proposed rule change for immediate effectiveness pursuant to Section 19(b)(3)(A) of the Act (15 U.S.C. 78s(b)(3)(A)) and Rule 19b-4(f)(2) (17 CFR 240.19b-4(f)(2)) thereunder to establish a fee for the dedicated cross connect to the testing systems environment. The Exchange anticipates to waive such proposed fee for a period of time and that any potential fees at the end of the waiver will be less than the fees for a 1Gb and 10Gb ULL connection to the production environment.

2. Statutory Basis

The Exchange believes the proposed change is consistent with the requirements of Section 6(b) of the Act,¹¹ in general, and Section 6(b)(5),¹² in particular, because it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and remove impediments to and perfect the mechanism of a free and open market and a national market system.

This filing describes the two existing methods to access the Exchange's optional testing systems environment, proposes to establish a third access method, and describes the process by which one access method would be discontinued. Doing so provides clarity to market participants and seeks to avoid potential investor confusion.

Access to the Exchange's testing systems environment is completely voluntary.¹³ The testing systems environment is a useful tool for Members and non-Members to test (i) upcoming Exchange software and code releases, (ii) product enhancements, and (iii) firm-developed software, prior to implementation in the Exchange's production environment. In addition, the testing systems environment allows unlimited firm-level testing of order types, order entry, order management, order throughput, acknowledgements, risk settings, mass cancelations, and purge requests.

¹¹ 15 U.S.C. 78f(b).

¹² 15 U.S.C. 78f(b)(5).

¹³ As noted above, business continuity and disaster recovery testing is performed separately and not within the testing systems environment that is the subject of this filing.

This filing also proposes to establish a third access method, a dedicated cross connect, to the Exchange's optional testing systems environment. The Exchange believes the proposed dedicated cross connect access to the test environment is being proposed purely for convenience and, again, would be entirely optional. Access to the test environment via a dedicated cross connect would enable Members and non-Members to connect their software to the test environment allowing their applications to communicate directly with the test environment. Members and non-Members that choose to access the test environment via a dedicated cross connect are also provided access to the test environments of the Exchange's affiliate options markets via a single connection, and would not be required to subscribe to multiple cross connects to test in those environments.

There is no functional difference between the two existing and proposed third access alternative. It is simply a technical decision of each Member or non-Member regarding how to access the testing systems environment. The testing systems environment, whether accessed via the proposed dedicated cross connection or otherwise, provides Members and non-Members the same scope of abilities to test their systems and software in the Exchange's testing systems environment, which replicates the Exchange's anticipated production trading environment. The testing systems environment serves to improve live trading on the Exchange and the national market system by permitting Members and non-Members the ability to accurately test software and code changes prior to implementing them in their systems in the live trading environment. This should, in turn, reduce the likelihood of a potentially disruptive issues in the live trading environment, which has the potential to affect all market participants.

Therefore, for the above reasons, the Exchange believes the proposed rule change is consistent with the Act.

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. There would be no competitive advantage for Members and non-Members that access the testing systems environment via one access method versus another. All modes of access allow Members and non-Members to perform the same testing functions in the same manner. As such, the Exchange does not believe that the proposed change will impose any burden on intermarket competition not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange believes the proposed rule change may have a positive impact on or intramarket competition. Among other things, the proposed rule change is intended to keep pace with technological changes in the industry and evolving customer needs and demands, and believes the dedicated cross connection to the testing systems environment will contribute to robust competition among national securities exchanges. As noted above, several exchanges already offer similar testing environments to their members and non-members.¹⁴ As a result, the Exchange believes this proposed rule change permits fair competition among 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;

¹⁴ See supra note 8.

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 Act¹⁵ and Rule 19b-4(f)(6)¹⁶ 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 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 (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-EMERALD-2024-25 on the subject line.

¹⁵ 15 U.S.C. 78s(b)(3)(A).

¹⁶ 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.

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-2024-25. 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 (<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 a.m. and 3 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-2024-25 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.¹⁷

Sherry R. Haywood,

Assistant Secretary.

¹⁷ 17 CFR 200.30-3(a)(12).