

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 25

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
Form 19b-4

File No. * SR 2023 - * 04

Amendment No. (req. for Amendments *)

Filing by Miami International Securities Exchange, LLC.

Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

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

Section 806(e)(1) *

Section 806(e)(2) *

Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934

Section 3C(b)(2) *

Exhibit 2 Sent As Paper Document

Exhibit 3 Sent As Paper Document

Description

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

Amend Exchange Rule 1308, Supervision of Accounts, to extend the temporary remote inspection relief for Members through the earlier of the effective date of the FINRA Pilot Program, if approved, or December 31, 2023.

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 * Katherine Last Name * Comly

Title * AVP, Associate Counsel

E-mail * kcomly@miami-holdings.com

Telephone * (609) 613-1396 Fax

Signature

Pursuant to the requirements of the Securities Exchange of 1934, Miami International Securities Exchange, I has duty caused this filing to be signed on its behalf by the undersigned thereunto duty authorized.

Date 02/02/2023

(Title *)

By Katherine S. Comly

AVP, Associate Counsel

(Name *)

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

Katherine S. Comly Date: 2023.02.02 17:09:34 -05'00'

Required fields are shown with yellow backgrounds and astericks.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Form 19b-4 Information *

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SR-MIAX-2023-04 19b4.docx

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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SR-MIAX-2023-04 Exhibit 1.docx

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 Advanced 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 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

Add Remove View

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 Sent As Paper Document

Exhibit 3 - Form, Report, or Questionnaire

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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 Sent As Paper Document

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

Add Remove View

SR-MIAX-2023-04 Exhibit 5.docx

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

Add Remove View

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) Miami International Securities Exchange, LLC (“MIAX” 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 1308, Supervision of Accounts, to extend the temporary remote inspection relief for Members³ through the earlier of the effective date of the FINRA pilot program on remote inspections (the “FINRA Pilot Program”),⁴ if approved, or December 31, 2023. The proposed extension would alleviate the ongoing operational challenges resulting from the COVID-19 pandemic that many member firms may continue to face in planning for and timely conducting required on-site inspections at locations requiring inspection in calendar year 2023.

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 or his designee pursuant to authority delegated by the Exchange Board of Directors on February 2, 2023. Exchange staff will advise the Board of Directors of any action taken pursuant to

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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.

⁴ See Securities Exchange Act Release No. 95452 (Aug. 9, 2022), 87 FR 50144 (Aug. 15, 2022) (SR-FINRA-2022-021).

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 Katherine Comly, AVP, Associate Counsel, at (609) 613-1396.

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

a. Purpose

The Exchange proposes to amend Exchange Rule 1308, Supervision of Accounts, to extend the temporary remote inspection relief for Members through the earlier of the effective date of the FINRA Pilot Program⁵ if approved, or December 31, 2023.

The COVID-19 pandemic has caused a host of operational disruptions to the securities industry and impacted Members, regulators, investors, and other stakeholders. In response to the pandemic, the Exchange began providing temporary relief to Members from specified Exchange Rules and requirements, including Exchange Rule 1308(d), Annual Branch Office Inspections. While there are several signs that the pandemic has receded, much uncertainty still remains. The emergence of new variants, dissimilar vaccination rates through the U.S., and varying levels of transmissions of the virus all indicate that COVID-19 remains an active and real public health concern. Against this setting, the Exchange understands the complexity Members face in assessing when and how to effectively and safely recall their employees back into offices alongside fashioning permanent telework arrangements or a hybrid workforce model in which some employees may work on-site in a commercial office space and other employees may work

⁵ Id.

off-site in an alternative location (e.g., a personal residence).⁶ Accordingly, due to the continued logistical challenge of going on-site to branch offices or locations while these public health and safety concerns related to COVID-19 persist coupled with several Members delaying their return-to-office plans, the Exchange believes that extending the temporary remote inspection relief to Members is warranted.

FINRA has filed with the Commission File No. SR-FINRA-2022-021, a proposed rule change to adopt a voluntary, remote inspections pilot program that is currently pending Commission review. The FINRA Pilot Program would provide for a voluntary, three-year remote inspection pilot program to allow broker-dealers to elect to fulfill their obligation under FINRA Rule 3110(c), Internal Inspections, by conducting inspections of some or all branch offices and non-branch locations remotely without an on-site visit to such office or location, subject to specified terms. FINRA has stated that the review period for its rule filing may extend well into 2023. Given the potential length of that review period, and the pilot program's significant planning requirements and varying limitations applicable to specific firms and office locations, FINRA believes that firms that intend to participate in the pilot program, if approved, would need a significant number of months to prepare appropriately for the pilot program. Moreover, further FINRA guidance might be needed to guide implementation in various circumstances.

To provide regulatory certainty while the pilot program filing is pending, and to avoid overlapping provisions if it is approved, the Exchange is proposing to amend Rule 1308(d)(5) so that the temporary relief would expire on the earlier of the effective date of the FINRA Pilot

⁶ For example, the Exchange understands that both the Commission and FINRA do not currently require employees to return to the office. See SEC Fiscal Year 2022 Agency Financial Report, available at <https://www.sec.gov/files/sec-2022-agency-financial-report.pdf> and <https://www.finra.org/rules-guidance/key-topics/covid-19>.

Program, if approved, or December 31, 2023. In the event the FINRA Pilot Program is not approved by December 31, 2023, the proposed rule change will automatically sunset on December 31, 2023. The Exchange will submit a separate rule filing if it seeks to extend the duration of the temporary proposed rule beyond December 31, 2023. In the event the FINRA Pilot Program is approved prior to December 31, 2023, the Exchange will file a conforming rule change with the Commission.

The proposed rule change will conform the Exchange's Rules with those of FINRA, which has extended the same temporary remote inspection relief to all FINRA member firms.⁷ This proposed extension would provide further clarity to Members on regulatory requirements and account for time needed for many Members to carefully assess when and how to have their employees safely return to their offices considering vaccination coverage in the U.S. and transmission levels of the virus, including any emergent variants throughout the country.

The proposed amendment would provide that Members have the option to conduct remotely those inspections described in Exchange Rule 1308(d)(5) through the earlier of the effective date of the FINRA Pilot program, if approved, or December 31, 2023. The Exchange is not proposing to amend the other conditions of the temporary relief in Exchange Rule 1308(d). The current conditions of Rule 1308(d) for Members that elect to conduct remote inspections would remain unchanged: such firms must still amend or supplement their written supervisory procedures for remote inspections, use remote inspections as part of an effective supervisory system, and maintain the required documentation. The additional period of time would also

⁷ See Securities Exchange Act Release No. 94018 (Jan. 20, 2022), 87 FR 4072 (Jan. 26, 2022) (SR-FINRA-2022-01); and Securities Exchange Act Release No. 96241 (Nov. 4, 2022), 87 FR 67969 (Nov. 10, 2022) (SR-FINRA-2022-030).

allow the Exchange to further monitor the effectiveness of remote inspections and their impacts – positive or negative – on Members’ overall supervisory systems in the evolving workplace.

The Exchange continues to believe this temporary remote inspection option is a reasonable alternative to provide to Members to fulfill their Rule 1308 obligations during the ongoing pandemic, and is designed to achieve the investor protection objectives of the inspection requirements under these unique circumstances. Members should consider whether, under their particular operating conditions, reliance on remote inspections would be reasonable under the circumstances. For example, Members with offices that are open to the public or that are otherwise doing business as usual should consider whether some form of in-person inspections would be feasible and appropriately contribute to a supervisory system that is reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable Exchange Rules.

The Exchange has filed the proposed rule change for immediate effectiveness and has requested that the SEC waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing, so the Exchange can implement the proposed rule change immediately.

The Exchange notes that the proposed rule change is substantively identical to the proposed rule changes recently filed by FINRA⁸ and the Investors Exchange LLC (“IEX”).⁹ The Exchange notes that MIAX Chapter XIII is incorporated by reference into the rulebooks of the Exchange’s affiliates, MIAX PEARL, LLC (“Pearl”) and MIAX Emerald, LLC (“Emerald”). As

⁸ See supra note 7.

⁹ See Securities Exchange Act Release No. 96606 (Jan. 6, 2023), 88 FR 2140 (Jan. 12, 2023) (SR-IEX-2022-14).

such, the amendments to MIAX Chapter XIII proposed herein will also apply to MIAX Pearl and MIAX Emerald Chapters XIII.

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.¹⁰ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹¹ 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)¹² 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 requirements for inspections of Members' branch offices and other locations, 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

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(5).

¹² Id.

Exchange. The proposed rule change would also avoid a potential lapse in the temporary relief while challenges from COVID-19 persist, provide firms regulatory continuity in meeting their inspection obligations during the remaining Commission review period of the Pilot Proposal, and allow firms time to adapt to the pilot program, if approved, and prepare for conducting on-site inspections, as applicable.

In recognition of the impact of COVID-19 on performing on-site inspections, the proposed rule change is intended to provide firms a temporary regulatory option to conduct inspections of offices and locations remotely for calendar year 2023 inspections (or until the effective date of the FINRA pilot program). This proposed supplementary material does not relieve firms from meeting the core regulatory obligation to establish and maintain a system to supervise the activities of each associated person that is reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable Exchange Rules that directly serve investor protection. In a time when faced with unique challenges resulting from the COVID-19 pandemic, the Exchange believes that the proposed rule change provides sensibly tailored relief that will afford firms the ability to observe the recommendations of public health officials to provide for the health and safety of their personnel, while continuing to serve and promote the protection of investors and the public interest.

4. 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 proposed rule change is not designed to address any competitive issue but to align the Exchange's rules with those of FINRA, which will assist FINRA in its oversight work done pursuant to a regulatory services agreement with the Exchange. The proposed rule change will

also provide for consistent application of the Exchange's supervision rules with those of FINRA, on which they are based. Consequently, the Exchange does not believe that the proposed change implicates competition at all. Additionally, and as stated above, FINRA has recently submitted a filing to extend its substantively identical temporary remote relief rule for its trading permit holders and members in the same manner.¹³

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 Act¹⁴ and Rule 19b-4(f)(6)¹⁵ 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.

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

¹³ See supra note 7.

¹⁴ 15 U.S.C. 78s(b)(3)(A).

¹⁵ 17 CFR 240.19b-4(f)(6).

Exchange has satisfied this requirement. However, Rule 19b-4(f)(6)¹⁶ permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest.

The Exchange believes that this filing is non-controversial because it raises no novel issues and is consistent with FINRA rules previously approved by or filed with the Commission. In particular, the purpose of the proposed rule change is to harmonize with and conform to FINRA rules. The Exchange believes that the proposal promotes the protection of investors as it will harmonize the Exchange's supervision rules with those of FINRA, which will simplify the oversight process conducted by FINRA pursuant to a regulatory services agreement with the Exchange. Moreover, the Exchange does not believe that the proposed rule change implicates competition at all because the proposed change aligns the Exchange's rules with those of FINRA, which will assist it in its oversight work done pursuant to such regulatory services agreement. The proposed rule change is based on the recent changes by IEX,¹⁷ and therefore, does not present any new or novel issues not already considered by the Commission.

The Exchange respectfully requests that the Commission waive the 30-day operative delay period after which a proposed rule change under Rule 19b-4(f)(6) becomes effective. Waiving the 30-day delay would permit the Exchange to harmonize its rules with FINRA, as described herein, upon effectiveness of the proposed rule filing. Since the rule proposal addresses the ability to conduct remote inspections for any inspections to be conducted through the earlier of the effective date of the FINRA Pilot Program, if approved, or December 31, 2023, waiving the 30-day delay would provide assurances to Members that they can plan their 2023

¹⁶ Id.

¹⁷ See supra note 9.

inspection program under a harmonized rule set designed to address the ongoing impacts of the COVID-19 pandemic, while at the same time assuring that Members continue to perform their supervisory obligations. The Exchange notes that proposed rule change does not present any new or novel issues because the Exchange is harmonizing its supervision rules with those of FINRA, on which they are based. Further, waiver of the operative delay will avoid any potential confusion that may otherwise occur on the part of Members as to the applicable rules governing inspections of branch offices and other locations.

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.

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

The proposed rule change is based on FINRA Rule 3110.17 and the FINRA Pilot Program,¹⁸ as described in the Purpose section. The proposed rule change is also based on the recent changes by IEX.¹⁹

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

¹⁸ See supra notes 4 and 7.

¹⁹ See supra note 917.

Not applicable.

11. Exhibits

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

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34- ; File No. SR-MIAX-2023-04)

February _____, 2023

Self-Regulatory Organizations: Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by Miami International Securities Exchange LLC to Amend Exchange Rule 1308, Supervision of Accounts

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 February ____, 2023, Miami International Securities Exchange LLC (“MIAX” 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 1308, Supervision of Accounts, to extend the temporary remote inspection relief for Members³ through the earlier of the effective date of the FINRA pilot program on remote inspections (the “FINRA Pilot Program”),⁴ if approved, or December 31, 2023. The proposed extension would alleviate the ongoing operational challenges resulting from the COVID-19 pandemic that many member firms

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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.

⁴ See Securities Exchange Act Release No. 95452 (Aug. 9, 2022), 87 FR 50144 (Aug. 15, 2022) (SR-FINRA-2022-021).

may continue to face in planning for and timely conducting required on-site inspections at locations requiring inspection in calendar year 2023.

The text of the proposed rule change is available on the Exchange's website at <http://www.miaxoptions.com/rule-filings>, at MIAX's principal office, and at the Commission's Public Reference Room.

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

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

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

1. Purpose

The Exchange proposes to amend Exchange Rule 1308, Supervision of Accounts, to extend the temporary remote inspection relief for Members through the earlier of the effective date of the FINRA Pilot Program⁵ if approved, or December 31, 2023.

The COVID-19 pandemic has caused a host of operational disruptions to the securities industry and impacted Members, regulators, investors, and other stakeholders. In response to the pandemic, the Exchange began providing temporary relief to Members from specified Exchange Rules and requirements, including Exchange Rule 1308(d), Annual Branch Office Inspections. While there are several signs that the pandemic has receded, much uncertainty still remains. The

⁵ Id.

emergence of new variants, dissimilar vaccination rates through the U.S., and varying levels of transmissions of the virus all indicate that COVID-19 remains an active and real public health concern. Against this setting, the Exchange understands the complexity Members face in assessing when and how to effectively and safely recall their employees back into offices alongside fashioning permanent telework arrangements or a hybrid workforce model in which some employees may work on-site in a commercial office space and other employees may work off-site in an alternative location (e.g., a personal residence).⁶ Accordingly, due to the continued logistical challenge of going on-site to branch offices or locations while these public health and safety concerns related to COVID-19 persist coupled with several Members delaying their return-to-office plans, the Exchange believes that extending the temporary remote inspection relief to Members is warranted.

FINRA has filed with the Commission File No. SR-FINRA-2022-021, a proposed rule change to adopt a voluntary, remote inspections pilot program that is currently pending Commission review. The FINRA Pilot Program would provide for a voluntary, three-year remote inspection pilot program to allow broker-dealers to elect to fulfill their obligation under FINRA Rule 3110(c), Internal Inspections, by conducting inspections of some or all branch offices and non-branch locations remotely without an on-site visit to such office or location, subject to specified terms. FINRA has stated that the review period for its rule filing may extend well into 2023. Given the potential length of that review period, and the pilot program's significant planning requirements and varying limitations applicable to specific firms and office locations, FINRA believes that firms that intend to participate in the pilot program, if approved, would

⁶ For example, the Exchange understands that both the Commission and FINRA do not currently require employees to return to the office. See SEC Fiscal Year 2022 Agency Financial Report, available at <https://www.sec.gov/files/sec-2022-agency-financial-report.pdf> and <https://www.finra.org/rules-guidance/key-topics/covid-19>.

need a significant number of months to prepare appropriately for the pilot program. Moreover, further FINRA guidance might be needed to guide implementation in various circumstances.

To provide regulatory certainty while the pilot program filing is pending, and to avoid overlapping provisions if it is approved, the Exchange is proposing to amend Rule 1308(d)(5) so that the temporary relief would expire on the earlier of the effective date of the FINRA Pilot Program, if approved, or December 31, 2023. In the event the FINRA Pilot Program is not approved by December 31, 2023, the proposed rule change will automatically sunset on December 31, 2023. The Exchange will submit a separate rule filing if it seeks to extend the duration of the temporary proposed rule beyond December 31, 2023. In the event the FINRA Pilot Program is approved prior to December 31, 2023, the Exchange will file a conforming rule change with the Commission.

The proposed rule change will conform the Exchange's Rules with those of FINRA, which has extended the same temporary remote inspection relief to all FINRA member firms.⁷ This proposed extension would provide further clarity to Members on regulatory requirements and account for time needed for many Members to carefully assess when and how to have their employees safely return to their offices considering vaccination coverage in the U.S. and transmission levels of the virus, including any emergent variants throughout the country.

The proposed amendment would provide that Members have the option to conduct remotely those inspections described in Exchange Rule 1308(d)(5) through the earlier of the effective date of the FINRA Pilot program, if approved, or December 31, 2023. The Exchange is not proposing to amend the other conditions of the temporary relief in Exchange Rule 1308(d).

⁷ See Securities Exchange Act Release No. 94018 (Jan. 20, 2022), 87 FR 4072 (Jan. 26, 2022) (SR-FINRA-2022-01); and Securities Exchange Act Release No. 96241 (Nov. 4, 2022), 87 FR 67969 (Nov. 10, 2022) (SR-FINRA-2022-030).

The current conditions of Rule 1308(d) for Members that elect to conduct remote inspections would remain unchanged: such firms must still amend or supplement their written supervisory procedures for remote inspections, use remote inspections as part of an effective supervisory system, and maintain the required documentation. The additional period of time would also allow the Exchange to further monitor the effectiveness of remote inspections and their impacts – positive or negative – on Members’ overall supervisory systems in the evolving workplace.

The Exchange continues to believe this temporary remote inspection option is a reasonable alternative to provide to Members to fulfill their Rule 1308 obligations during the ongoing pandemic, and is designed to achieve the investor protection objectives of the inspection requirements under these unique circumstances. Members should consider whether, under their particular operating conditions, reliance on remote inspections would be reasonable under the circumstances. For example, Members with offices that are open to the public or that are otherwise doing business as usual should consider whether some form of in-person inspections would be feasible and appropriately contribute to a supervisory system that is reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable Exchange Rules.

The Exchange has filed the proposed rule change for immediate effectiveness and has requested that the SEC waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing, so the Exchange can implement the proposed rule change immediately.

The Exchange notes that the proposed rule change is substantively identical to the proposed rule changes recently filed by FINRA⁸ and the Investors Exchange LLC (“IEX”).⁹ The Exchange notes that MIAX Chapter XIII is incorporated by reference into the rulebooks of the Exchange’s affiliates, MIAX PEARL, LLC (“Pearl”) and MIAX Emerald, LLC (“Emerald”). As such, the amendments to MIAX Chapter XIII proposed herein will also apply to MIAX Pearl and MIAX Emerald Chapters XIII.

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.¹⁰ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹¹ 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)¹² 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

⁸ See supra note 7.

⁹ See Securities Exchange Act Release No. 96606 (Jan. 6, 2023), 88 FR 2140 (Jan. 12, 2023) (SR-IEX-2022-14).

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(5).

¹² Id.

Exchange's supervision rules, specifically with respect to the requirements for inspections of Members' branch offices and other locations, 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 proposed rule change would also avoid a potential lapse in the temporary relief while challenges from COVID-19 persist, provide firms regulatory continuity in meeting their inspection obligations during the remaining Commission review period of the Pilot Proposal, and allow firms time to adapt to the pilot program, if approved, and prepare for conducting on-site inspections, as applicable.

In recognition of the impact of COVID-19 on performing on-site inspections, the proposed rule change is intended to provide firms a temporary regulatory option to conduct inspections of offices and locations remotely for calendar year 2023 inspections (or until the effective date of the FINRA pilot program). This proposed supplementary material does not relieve firms from meeting the core regulatory obligation to establish and maintain a system to supervise the activities of each associated person that is reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable Exchange Rules that directly serve investor protection. In a time when faced with unique challenges resulting from the COVID-19 pandemic, the Exchange believes that the proposed rule change provides sensibly tailored relief that will afford firms the ability to observe the recommendations of public health officials to provide for the health and safety of their personnel, while continuing to serve and promote the protection of investors and the public interest.

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 proposed rule change is not designed to address any competitive issue but to align the Exchange's rules with those of FINRA, which will assist FINRA in its oversight work done pursuant to a regulatory services agreement with the Exchange. The proposed rule change will also provide for consistent application of the Exchange's supervision rules with those of FINRA, on which they are based. Consequently, the Exchange does not believe that the proposed change implicates competition at all. Additionally, and as stated above, FINRA has recently submitted a filing to extend its substantively identical temporary remote relief rule for its trading permit holders and members in the same manner.¹³

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 Act¹⁴ and Rule 19b-4(f)(6)¹⁵ thereunder.

¹³ See supra note 7.

¹⁴ 15 U.S.C. 78s(b)(3)(A).

¹⁵ 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.

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 (<http://www.sec.gov/rules/sro.shtml>);
- or
- Send an e-mail [to rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-MIAX-2023-04 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-MIAX-2023-04. 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-MIAX-2023-04 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.¹⁶

Vanessa Countryman
Secretary

¹⁶ 17 CFR 200.30-3(a)(12).

EXHIBIT 5

New text is underlined;

Deleted text is in [brackets]

MIAMI INTERNATIONAL SECURITIES EXCHANGE, LLC Rules

Rule 1308. Supervision of Accounts

(a) – (c) (No Change.)

(d) **Annual Branch Office Inspections.**

(1) – (4) (No change.)

(5) Each Member obligated to conduct an inspection of a branch office or non-branch location in the calendar years specified in this Rule 1308(d)(5)[2020, 2021, and 2022] pursuant to Rule 1308(d), as applicable, may, subject to the requirements of Rule 1308(d)(5), satisfy such obligation by conducting the applicable inspection remotely, without an on-site visit to the office or location. In accordance with Rule 1308(d)(4), inspections for calendar year 2020 must be completed on or before March 31, 2021, [. I] inspections for calendar year 2021 must be completed on or before December 31, 2021, and inspections for calendar year 2022 must be completed on or before December 31, 2022. With respect to a Member's obligation to conduct an inspection of an office or location in calendar year 2023[2022], a Member has the option to conduct those inspections remotely through the earlier of the effective date of the pilot program proposed in File No. SR-FINRA-2022-021, if approved, or December 31, 2023[2022]. Notwithstanding Rule 1308(d)(5), a Member remains subject to the other requirements of Rule 1308(d).

(i) (No change.)

(ii) **Effective Supervisory System.** The requirement to conduct inspections of offices and locations is one part of a Member's overall obligation to have an effective supervisory system and therefore, a Member must continue with its ongoing review of the activities and functions occurring at all offices and locations, whether or not the Member conducts inspections remotely. A Member's use of a remote inspection of an office or location will be held to the same standards for review as set forth under Rule 1308(d). Where a Member's remote inspection of an office or location identifies any indicators of irregularities or misconduct (i.e., "red flags"), the Member may need to impose additional supervisory procedures for that office or location or may need to provide for more frequent monitoring or oversight of that office or location, including potentially a subsequent physical, on-site visit on an announced or unannounced basis when the branch office's operational difficulties associated with COVID-19 abate, nationally or locally as relevant, and the challenges a branch office is facing in light of the public health and safety concerns make such on-site visits feasible using reasonable best efforts. The temporary relief provided by Rule 1308(d)(5) does not extend to a Member's inspection requirements beyond the

earlier of the effective date of the pilot program proposed in File No. SR-FINRA-2022-021, if approved, or December 31, 2023[2022] and such inspections must be conducted in compliance with Rule 1308(d)(1) through (3).

(iii) **Documentation Requirement.** A Member must maintain and preserve a centralized record for the[each of] calendar years specified in this Rule 1308(d)(5)[2020, 2021, and 2022] that separately identifies: (1) all offices or locations that had inspections that were conducted remotely; and (2) any offices or locations for which the Member determined to impose additional supervisory procedures or more frequent monitoring, as provided in Rule 1308(d)(5). A Member's documentation of the results of a remote inspection for an office or location must identify any additional supervisory procedures or more frequent monitoring for that office or location that were imposed as a result of the remote inspection.

(e) – (k) (No change.)
