

note) (Inflation Adjustment Act) to require agencies to publish regulations adjusting the amount of civil monetary penalties provided by law within the jurisdiction of the agency not later than July 1, 2016, and annual adjustments thereafter.

For the 2019 annual adjustment for inflation of the maximum civil penalty under the Program Fraud Civil Remedies Act of 1986, the Board applies the formula provided by the 2015 Act and the Board's regulations at Title 20, Code of Federal Regulations, Part 356. In accordance with the 2015 Act, the amount of the adjustment is based on the percent increase between the Consumer Price Index (CPI-U) for the month of October preceding the date of the adjustment and the CPI-U for the October one year prior to the October immediately preceding the date of the adjustment. If there is no increase, there is no adjustment of civil penalties. The percent increase between the CPI-U for October 2018 and October 2017, as provided by Office of Management and Budget Memorandum M-19-04 (December 14, 2018) is 1.02522 percent. Therefore, the new maximum penalty under the Program Fraud Civil Remedies Act is \$11,463 (the 2018 maximum penalty of \$11,181 multiplied by 1.02522, rounded to the nearest dollar). The new minimum penalty under the False Claims Act is \$11,463 (the 2018 minimum penalty of \$11,181 multiplied by 1.02522, rounded to the nearest dollar), and the new maximum penalty is \$22,927 (the 2018 maximum penalty of \$22,363 multiplied by 1.02522, rounded to the nearest dollar). The adjustments in penalties will be effective February 1, 2019.

By Authority of the Board.

**Sylvia Zaragoza,**

*Acting Secretary to the Board.*

[FR Doc. 2019-00729 Filed 1-31-19; 8:45 am]

**BILLING CODE 7905-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-84997; File No. 4-678]

### Program for Allocation of Regulatory Responsibilities Pursuant to Rule 17d-2; Notice of Filing of Proposed Amended Plan for the Allocation of Regulatory Responsibilities Among the Financial Industry Regulatory Authority, Inc., Miami International Securities Exchange, LLC, MIAX PEARL, LLC, and MIAX EMERALD, LLC.

January 29, 2019.

Pursuant to Section 17(d) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 17d-2 thereunder,<sup>2</sup> notice is hereby given that on December 20, 2018, Miami International Securities Exchange, LLC ("MIAX"), MIAX PEARL, LLC ("MIAX PEARL"), MIAX EMERALD, LLC ("MIAX EMERALD") and the Financial Industry Regulatory Authority, Inc. ("FINRA") (together, the "Parties") filed with the Securities and Exchange Commission ("Commission" or "SEC") an amended plan for the allocation of regulatory responsibilities, dated December 19, 2018 ("17d-2 Plan" or the "Plan"). The Commission is publishing this notice to solicit comments on the 17d-2 Plan from interested persons.

#### I. Introduction

Section 19(g)(1) of the Act,<sup>3</sup> among other things, requires every self-regulatory organization ("SRO") registered as either a national securities exchange or national securities association to examine for, and enforce compliance by, its members and persons associated with its members with the Act, the rules and regulations thereunder, and the SRO's own rules, unless the SRO is relieved of this responsibility pursuant to Section 17(d) or Section 19(g)(2) of the Act.<sup>4</sup> Without this relief, the statutory obligation of each individual SRO could result in a pattern of multiple examinations of broker-dealers that maintain memberships in more than one SRO ("common members"). Such regulatory duplication would add unnecessary expenses for common members and their SROs.

Section 17(d)(1) of the Act<sup>5</sup> was intended, in part, to eliminate unnecessary multiple examinations and

regulatory duplication.<sup>6</sup> With respect to a common member, Section 17(d)(1) authorizes the Commission, by rule or order, to relieve an SRO of the responsibility to receive regulatory reports, to examine for and enforce compliance with applicable statutes, rules, and regulations, or to perform other specified regulatory functions.

To implement Section 17(d)(1), the Commission adopted two rules: Rule 17d-1 and Rule 17d-2 under the Act.<sup>7</sup> Rule 17d-1 authorizes the Commission to name a single SRO as the designated examining authority ("DEA") to examine common members for compliance with the financial responsibility requirements imposed by the Act, or by Commission or SRO rules.<sup>8</sup> When an SRO has been named as a common member's DEA, all other SROs to which the common member belongs are relieved of the responsibility to examine the firm for compliance with the applicable financial responsibility rules. On its face, Rule 17d-1 deals only with an SRO's obligations to enforce member compliance with financial responsibility requirements. Rule 17d-1 does not relieve an SRO from its obligation to examine a common member for compliance with its own rules and provisions of the federal securities laws governing matters other than financial responsibility, including sales practices and trading activities and practices.

To address regulatory duplication in these and other areas, the Commission adopted Rule 17d-2 under the Act.<sup>9</sup> Rule 17d-2 permits SROs to propose joint plans for the allocation of regulatory responsibilities with respect to their common members. Under paragraph (c) of Rule 17d-2, the Commission may declare such a plan effective if, after providing for appropriate notice and comment, it determines that the plan is necessary or appropriate in the public interest and for the protection of investors; to foster cooperation and coordination among the SROs; to remove impediments to, and foster the development of, a national market system and a national clearance and settlement system; and is in conformity with the factors set forth in Section 17(d) of the Act. Commission

<sup>6</sup> See Securities Act Amendments of 1975, Report of the Senate Committee on Banking, Housing, and Urban Affairs to Accompany S. 249, S. Rep. No. 94-75, 94th Cong., 1st Session 32 (1975).

<sup>7</sup> 17 CFR 240.17d-1 and 17 CFR 240.17d-2, respectively.

<sup>8</sup> See Securities Exchange Act Release No. 12352 (April 20, 1976), 41 FR 18808 (May 7, 1976).

<sup>9</sup> See Securities Exchange Act Release No. 12935 (October 28, 1976), 41 FR 49091 (November 8, 1976).

<sup>1</sup> 15 U.S.C. 78q(d).

<sup>2</sup> 17 CFR 240.17d-2.

<sup>3</sup> 15 U.S.C. 78s(g)(1).

<sup>4</sup> 15 U.S.C. 78q(d) and 15 U.S.C. 78s(g)(2), respectively.

<sup>5</sup> 15 U.S.C. 78q(d)(1).

approval of a plan filed pursuant to Rule 17d-2 relieves an SRO of those regulatory responsibilities allocated by the plan to another SRO.

## II. The Plan

On November 19, 2014, the Commission declared effective the Plan entered into between FINRA and MIAx for allocating regulatory responsibility pursuant to Rule 17d-2.<sup>10</sup> The Plan is intended to reduce regulatory duplication for firms that are common members of both MIAx and FINRA. The plan reduces regulatory duplication for firms that are members of MIAx and FINRA by allocating regulatory responsibility with respect to certain applicable laws, rules, and regulations. Included in the Plan is an exhibit that lists every MIAx rule for which FINRA bears responsibility under the Plan for overseeing and enforcing with respect to MIAx members that are also members of FINRA and the associated persons therewith. On January 12, 2017, the parties submitted a proposed amendment to the Plan to add MIAx PEARL as a Participant to the Plan.<sup>11</sup> On June 28, 2018, the parties submitted a proposed amendment to the Plan to allocate surveillance, investigation, and enforcement responsibilities for Rule 14e-4 under the Act, as well as certain provisions of Regulation SHO.<sup>12</sup>

## III. Proposed Amendment to Plan

On December 20, 2018, the parties submitted a proposed amendment to the Plan. The primary purpose of the amendment is to add MIAx EMERALD as a Participant to the Plan. The text of the proposed amended 17d-2 plan is as follows (additions are *italicized*; deletions are [bracketed]):

### Agreement Among Financial Industry Regulatory Authority, Inc., Miami International Securities Exchange, LLC [AND], MIAx Pearl, LLC and MIAx Emerald, LLC, Pursuant To Rule 17d-2 Under The Securities Exchange Act of 1934

This Agreement, by and among the Financial Industry Regulatory Authority, Inc. (“FINRA”), Miami International Securities Exchange, LLC (“MIAx”) [and], MIAx PEARL, LLC (“MIAx PEARL”), and MIAx Emerald, LLC (“MIAx Emerald”) is made this

[27th]19th day of [June]December, 2018 (the “Agreement”), pursuant to Section 17(d) of the Securities Exchange Act of 1934 (the “Exchange Act”) and Rule 17d-2 thereunder, which permits agreements between self-regulatory organizations to allocate regulatory responsibility to eliminate regulatory duplication. FINRA, MIAx [and], MIAx PEARL and MIAx Emerald may be referred to individually as a “party” and together as the “parties.”

This Agreement amends and restates the agreement entered into between FINRA, MIAx and MIAx PEARL on [January 11, 2017]June 27, 2018, entitled “Agreement between Financial Industry Regulatory Authority, Inc., Miami International Securities Exchange, LLC and MIAx PEARL, LLC Pursuant to Rule 17d-2 under the Securities Exchange Act of 1934,” and any subsequent amendments thereafter.

Whereas, the parties desire to reduce duplication in the examination of their Common Members (as defined herein) and in the filing and processing of certain registration and membership records; and

Whereas, the parties desire to execute an agreement covering such subjects pursuant to the provisions of Rule 17d-2 under the Exchange Act and to file such agreement with the Securities and Exchange Commission (the “SEC” or “Commission”) for its approval.

Now, Therefore, in consideration of the mutual covenants contained hereinafter, the parties hereby agree as follows:

1. **Definitions.** Unless otherwise defined in this Agreement or the context otherwise requires, the terms used in this Agreement shall have the same meaning as they have under the Exchange Act and the rules and regulations thereunder. As used in this Agreement, the following terms shall have the following meanings:

(a) “MIAx Rules,” “MIAx PEARL Rules”, “MIAx Emerald Rules” or “FINRA Rules” shall mean: (i) The rules of MIAx [or], MIAx PEARL or MIAx Emerald, respectively, or (ii) the rules of FINRA, respectively, as the rules of an exchange or association are defined in Exchange Act Section 3(a)(27).

(b) “Common Rules” shall mean MIAx Rules [and], MIAx PEARL Rules and MIAx Emerald Rules that are substantially similar to the applicable FINRA Rules and certain provisions of the Exchange Act and SEC rules set forth on Exhibit 1 in that examination for compliance with such provisions and rules would not require FINRA to develop one or more new examination standards, modules, procedures, or criteria in order to analyze the

application of the provision or rule, or a Common Member’s activity, conduct, or output in relation to such provision or rule. Common Rules shall not include any provisions regarding (i) notice, reporting or any other filings made directly to or from MIAx [or], MIAx PEARL or MIAx Emerald, (ii) incorporation by reference of MIAx [or], MIAx PEARL Rules or MIAx Emerald Rules that are not Common Rules, (iii) exercise of discretion in a manner that differs from FINRA’s exercise of discretion including, but not limited to exercise of exemptive authority, by MIAx [or], MIAx PEARL or MIAx Emerald, (iv) prior written approval of MIAx [or], MIAx PEARL or MIAx Emerald and (v) payment of fees or fines to MIAx [or], MIAx PEARL or MIAx Emerald.

(c) “Common Members” shall mean members of FINRA and at least one of MIAx [or], MIAx PEARL or MIAx Emerald.

(d) “Effective Date” shall be the date this Agreement is approved by the Commission.

(e) “Enforcement Responsibilities” shall mean the conduct of appropriate proceedings, in accordance with FINRA’s Code of Procedure (the Rule 9000 Series) and other applicable FINRA procedural rules, to determine whether violations of Common Rules have occurred, and if such violations are deemed to have occurred, the imposition of appropriate sanctions as specified under FINRA’s Code of Procedure and sanctions guidelines.

(f) “Regulatory Responsibilities” shall mean the examination responsibilities and Enforcement Responsibilities relating to compliance by the Common Members with the Common Rules and the provisions of the Exchange Act and the rules and regulations thereunder, and other applicable laws, rules and regulations, each as set forth on Exhibit 1 attached hereto. The term “Regulatory Responsibilities” shall also include the surveillance, investigation and Enforcement Responsibilities relating to compliance by Common Members with Rule 14e-4 of the Securities Exchange Act (“Rule 14e-4”), with a focus on the standardized call option provision of Rule 14e-4(a)(1)(ii)(D).

2. **Regulatory and Enforcement Responsibilities.** FINRA shall assume Regulatory Responsibilities and Enforcement Responsibilities for Common Members. Attached as Exhibit 1 to this Agreement and made part hereof, MIAx [and], MIAx PEARL and MIAx Emerald furnished FINRA with a current list of Common Rules and certified to FINRA that such rules that are MIAx Rules [and], MIAx PEARL

<sup>10</sup> See Securities Exchange Act Release No. 73641 (November 19, 2014), 79 FR 70230 (November 25, 2014).

<sup>11</sup> See Securities Exchange Act Release Nos. 79779 (January 12, 2017), 82 FR 6674 (January 19, 2017) (notice) and 79974 (February 6, 2017), 82 FR 10417 (February 10, 2017) (order).

<sup>12</sup> See Securities Exchange Act Release No. 83696 (July 24, 2018), 83 FR 35682 (July 27, 2018).

Rules and *MIAX Emerald Rules* are substantially similar to the corresponding FINRA Rules (the "Certification"). FINRA hereby agrees that the rules listed in the Certification are Common Rules as defined in this Agreement. Each year following the Effective Date of this Agreement, or more frequently if required by changes in the rules of the parties, MIAX [and], MIAX PEARL and *MIAX Emerald* shall submit an updated list of Common Rules to FINRA for review which shall add MIAX Rules [or], MIAX PEARL Rules or *MIAX Emerald Rules* not included in the current list of Common Rules that qualify as Common Rules as defined in this Agreement; delete MIAX Rules [or], MIAX PEARL Rules or *MIAX Emerald Rules* included in the current list of Common Rules that no longer qualify as Common Rules as defined in this Agreement; and confirm that the remaining rules on the current list of Common Rules continue to be MIAX Rules [or], MIAX PEARL Rules or *MIAX Emerald Rules* that qualify as Common Rules as defined in this Agreement. Within 30 days of receipt of such updated list, FINRA shall confirm in writing whether the rules listed in any updated list are Common Rules as defined in this Agreement. Notwithstanding anything herein to the contrary, it is explicitly understood that the term "Regulatory Responsibilities" does not include, and MIAX [and], MIAX PEARL and *MIAX Emerald* shall retain full responsibility for (unless otherwise addressed by separate agreement or rule) (collectively, the "Retained Responsibilities") the following:

(a) Surveillance, examination, investigation and enforcement with respect to trading activities or practices involving MIAX's [and], MIAX PEARL's and *MIAX Emerald's* own marketplace;

(b) registration pursuant to their applicable rules of associated persons (*i.e.*, registration rules that are not Common Rules);

(c) discharge of their duties and obligations as a Designated Examining Authority pursuant to Rule 17d-1 under the Exchange Act; and

(d) any MIAX Rules [or], MIAX PEARL Rules or *MIAX Emerald Rules* that are not Common Rules as provided in paragraph 6.

**3. Common Members.** Prior to the Effective Date, MIAX [and], MIAX PEARL and *MIAX Emerald* shall furnish FINRA with a current list of Common Members, which shall be updated no less frequently than once each quarter.

**4. No Charge.** There shall be no charge to MIAX [and], MIAX PEARL and *MIAX Emerald* by FINRA for

performing the Regulatory Responsibilities and Enforcement Responsibilities under this Agreement except as hereinafter provided. FINRA shall provide MIAX [and], MIAX PEARL and *MIAX Emerald* with ninety (90) days advance written notice in the event FINRA decides to impose any charges to MIAX [and], MIAX PEARL and *MIAX Emerald* for performing the Regulatory Responsibilities under this Agreement. If FINRA determines to impose a charge, MIAX [and], MIAX PEARL and *MIAX Emerald* shall have the right at the time of the imposition of such charge to terminate this Agreement; provided, however, that FINRA's Regulatory Responsibilities under this Agreement shall continue until the Commission approves the termination of this Agreement.

**5. Applicability of Certain Laws, Rules, Regulations or Orders.**

Notwithstanding any provision hereof, this Agreement shall be subject to any statute, or any rule or order of the SEC. To the extent such statute, rule or order is inconsistent with one or more provisions of this Agreement, the statute, rule or order shall supersede the provision(s) hereof to the extent necessary to be properly effectuated and the provision(s) hereof in that respect shall be null and void.

**6. Notification of Violations.** In the event that FINRA becomes aware of apparent violations of any MIAX Rules [or], MIAX PEARL Rules or *MIAX Emerald Rules*, which are not listed as Common Rules, discovered pursuant to the performance of the Regulatory Responsibilities assumed hereunder, FINRA shall notify MIAX [and], MIAX PEARL and *MIAX Emerald* of those apparent violations for such response as MIAX [and], MIAX PEARL and *MIAX Emerald* deem appropriate. In the event that MIAX [or], MIAX PEARL or *MIAX Emerald* becomes aware of apparent violations of any Common Rules, discovered pursuant to the performance of the Retained Responsibilities, MIAX [and], MIAX PEARL and *MIAX Emerald* shall notify FINRA of those apparent violations and such matters shall be handled by FINRA as provided in this Agreement. Apparent violations of Common Rules shall be processed by, and enforcement proceedings in respect thereto shall be conducted by FINRA as provided hereinbefore; provided, however, that in the event a Common Member is the subject of an investigation relating to a transaction on MIAX [or], MIAX PEARL or *MIAX Emerald*, MIAX [and], MIAX PEARL and *MIAX Emerald* may in their discretion assume concurrent jurisdiction and responsibility. Each

party agrees to make available promptly all files, records and witnesses necessary to assist the other in its investigation or proceedings.

**7. Continued Assistance.**

(a) FINRA shall make available to MIAX [and], MIAX PEARL and *MIAX Emerald* all information obtained by FINRA in the performance by it of the Regulatory Responsibilities hereunder with respect to the Common Members subject to this Agreement. In particular, and not in limitation of the foregoing, FINRA shall furnish MIAX [and], MIAX PEARL and *MIAX Emerald* any information it obtains about Common Members which reflects adversely on their financial condition. MIAX [and], MIAX PEARL and *MIAX Emerald* shall make available to FINRA any information coming to its attention that reflects adversely on the financial condition of Common Members or indicates possible violations of applicable laws, rules or regulations by such firms.

(b) The parties agree that documents or information shared shall be held in confidence, and used only for the purposes of carrying out their respective regulatory obligations. No party shall assert regulatory or other privileges as against any other with respect to documents or information that is required to be shared pursuant to this Agreement.

(c) The sharing of documents or information among the parties pursuant to this Agreement shall not be deemed a waiver as against third parties of regulatory or other privileges relating to the discovery of documents or information.

**8. Statutory Disqualifications.** When FINRA becomes aware of a statutory disqualification as defined in the Exchange Act with respect to a Common Member, FINRA shall determine pursuant to Sections 15A(g) and/or Section 6(c) of the Exchange Act the acceptability or continued applicability of the person to whom such disqualification applies and keep MIAX [and], MIAX PEARL and *MIAX Emerald* advised of its actions in this regard for such subsequent proceedings as MIAX [and], MIAX PEARL and *MIAX Emerald* may initiate.

**9. Customer Complaints.** MIAX [and], MIAX PEARL and *MIAX Emerald* shall forward to FINRA copies of all customer complaints involving Common Members received by MIAX [and], MIAX PEARL and *MIAX Emerald* relating to FINRA's Regulatory Responsibilities under this Agreement. It shall be FINRA's responsibility to review and take appropriate action in respect to such complaints.

10. **Advertising.** FINRA shall assume responsibility to review the advertising of Common Members subject to the Agreement, provided that such material is filed with FINRA in accordance with FINRA's filing procedures and is accompanied with any applicable filing fees set forth in FINRA Rules.

11. **No Restrictions on Regulatory Action.** Nothing contained in this Agreement shall restrict or in any way encumber the right of any party to conduct its own independent or concurrent investigation, examination or enforcement proceeding of or against Common Members, as any party, in its sole discretion, shall deem appropriate or necessary.

12. **Termination.** This Agreement may be terminated by any party at any time upon the approval of the Commission after one (1) year's written notice to the other parties (or such shorter time as agreed by the parties), except as provided in paragraph 4.

13. **Arbitration.** In the event of a dispute among the parties as to the operation of this Agreement, the parties hereby agree that any such dispute shall be settled by arbitration in Washington, DC in accordance with the rules of the American Arbitration Association then in effect, or such other procedures as the parties may mutually agree upon. Judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction. Each party acknowledges that the timely and complete performance of its obligations pursuant to this Agreement is critical to the business and operations of the other parties. In the event of a dispute among the parties, the parties shall continue to perform their respective obligations under this Agreement in good faith during the resolution of such dispute unless and until this Agreement is terminated in accordance with its provisions. Nothing in this Section 13 shall interfere with a party's right to terminate this Agreement as set forth herein.

14. **Separate Agreement.** This Agreement is wholly separate from the following agreement: (1) The multiparty Agreement made pursuant to Rule 17d-2 of the Exchange Act among BATS Exchange, Inc., BOX Options Exchange, LLC, Chicago Board Options Exchange, Incorporated, C2 Options Exchange, Incorporated, the International Securities Exchange, LLC, FINRA, MIAX, NYSE MKT LLC, the NYSE Arca, Inc., The NASDAQ Stock Market LLC, NASDAQ OMX BX, Inc., NASDAQ OMX PHLX LLC, ISE Gemini, LLC,

EDGX Exchange, Inc., ISE Mercury, LLC and MIAX PEARL, LLC involving the allocation of regulatory responsibilities with respect to common members for compliance with common rules relating to the conduct by broker-dealers of accounts for listed options or index warrants entered as approved by the SEC on February 2, 2017, and as may be amended from time to time; and (2) the multiparty Agreement made pursuant to Rule 17d-2 of the Exchange Act among NYSE MKT LLC, BATS Exchange, Inc., EDGX Exchange, Inc., BOX Options Exchange LLC, NASDAQ OMX BX, Inc., C2 Options Exchange, Incorporated, Chicago Board Options Exchange, Incorporated, International Securities Exchange LLC, ISE Gemini, LLC, ISE Mercury, LLC, FINRA, NYSE Arca, Inc., The NASDAQ Stock Market LLC, NASDAQ OMX PHLX, Inc., MIAX and MIAX PEARL, LLC involving the allocation of regulatory responsibilities with respect to SRO market surveillance of common members activities with regard to certain common rules relating to listed options approved by the SEC on February 2, 2017, and as may be amended from time to time.

15. **Notification of Members.** The parties shall notify Common Members of this Agreement after the Effective Date by means of a uniform joint notice.

16. **Amendment.** This Agreement may be amended in writing provided that the changes are approved by each party. All such amendments must be filed with and approved by the Commission before they become effective.

17. **Limitation of Liability.** None of the parties nor any of their respective directors, governors, officers or employees shall be liable to any other party to this Agreement for any liability, loss or damage resulting from or claimed to have resulted from any delays, inaccuracies, errors or omissions with respect to the provision of Regulatory Responsibilities as provided hereby or for the failure to provide any such responsibility, except with respect to such liability, loss or damages as shall have been suffered by any party and caused by the willful misconduct of another party or their respective directors, governors, officers or employees. No warranties, express or implied, are made by any party hereto with respect to any of the responsibilities to be performed by them hereunder.

18. **Relief from Responsibility.** Pursuant to Sections 17(d)(1)(A) and 19(g) of the Exchange Act and Rule 17d-2 thereunder, FINRA, MIAX [and],

MIAX PEARL and MIAX Emerald join in requesting the Commission, upon its approval of this Agreement or any part thereof, to relieve MIAX [and], MIAX PEARL and MIAX Emerald of any and all responsibilities with respect to matters allocated to FINRA pursuant to this Agreement; provided, however, that this Agreement shall not be effective until the Effective Date.

19. **Severability.** Any term or provision of this Agreement that is invalid or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this Agreement or affecting the validity or enforceability of any of the terms or provisions of this Agreement in any other jurisdiction.

20. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and such counterparts together shall constitute one and the same instrument.

In witness whereof, each party has executed or caused this Agreement to be executed on its behalf by a duly authorized officer as of the date first written above.

MIAMI INTERNATIONAL SECURITIES EXCHANGE, LLC

By: \_\_\_\_\_

Name:

Title:

MIAX PEARL, LLC

By: \_\_\_\_\_

Name:

Title:

MIAX EMERALD, LLC

By: \_\_\_\_\_

Name:

Title:

FINANCIAL INDUSTRY REGULATORY AUTHORITY, INC.

By: \_\_\_\_\_

Name:

Title:

#### Exhibit 1

Miami International Securities Exchange, LLC [and], MIAX PEARL, LLC and MIAX Emerald, LLC Rules Certification for 17d-2 Agreement With FINRA

Miami International Securities Exchange, LLC ("MIAX") [and], MIAX PEARL, LLC ("MIAX PEARL") and MIAX Emerald, LLC ("MIAX Emerald") hereby certify that the requirements contained in the rules listed below are identical to, or substantially similar to, the comparable FINRA (NASD) Rule, Exchange Act provision or SEC rule identified ("Common Rules").

| MIAX rules   | MIAX Pearl rules   | MIAX Emerald rules   | FINRA (NASD) rules, Exchange Act provision or SEC rule   |
|--|--|--|--|
| Rule 301 Just and Equitable Principles of Trade <sup>1</sup> .   | Rule 301 Just and Equitable Principles of Trade <sup>1</sup> .   | <i>Rule 301 Just and Equitable Principles of Trade<sup>1</sup>.</i>  | FINRA Rule 2010 Standards of Commercial Honor and Principles of Trade.                               |
| Rule 303 Prevention of the Misuse of Material Nonpublic Information <sup>1</sup> #.                                    | Rule 303 Prevention of the Misuse of Material Nonpublic Information <sup>1</sup> #.                                    | <i>Rule 303 Prevention of the Misuse of Material Nonpublic Information<sup>1</sup> #.</i>                                    | Section 15(g) of the Exchange Act and FINRA Rule 3110(b)(1) Supervision.                             |
| Rule 315 Anti-Money Laundering Compliance Program #.   | Rule 315 Anti-Money Laundering Compliance Program #.   | <i>Rule 315 Anti-Money Laundering Compliance Program<sup>1</sup> #.</i>  | FINRA Rule 3310 Anti-Money Laundering Compliance Program.  |
| Rule 318(a) Manipulation .....   | Rule 318(a) Manipulation .....   | <i>Rule 318(a) Manipulation .....</i>  | FINRA Rule 2020 Use of Manipulative, Deceptive or other Fraudulent Devices.                          |
| Rule 318(b) Manipulation .....   | Rule 318(b) Manipulation .....   | <i>Rule 318(b) Manipulation .....</i>  | FINRA Rule 6140(d) Other Trading Practices.  |
| Rule 319 Forwarding of Proxy and Other Issuer-Related Materials.   | Rule 319 Forwarding of Proxy and Other Issuer-Related Materials.   | <i>Rule 319 Forwarding of Proxy and Other Issuer-Related Materials.</i>  | FINRA Rule 2251 Processing and Forwarding of Proxy and Other Issuer-Related Materials.               |
| Rule 320 Trading Ahead of Research Reports.  | Rule 320 Trading Ahead of Research Reports.  | <i>Rule 320 Trading Ahead of Research Reports.</i>   | FINRA Rule 5280 Trading Ahead of Research Reports.   |
| Rule 800(a), (b) and (d) Maintenance, Retention and Furnishing of Books, Records and Other Information <sup>1</sup> #. | Rule 800(a), (b) and (d) Maintenance, Retention and Furnishing of Books, Records and Other Information <sup>1</sup> #. | <i>Rule 800(a), (b) and (d) Maintenance, Retention and Furnishing of Books, Records and Other Information<sup>1</sup> #.</i> | FINRA Rule 4511 General Requirements* and Section 17 of the Exchange Act and the rules thereunder #. |
| Rule 1304 Continuing Education for Registered Persons #.   | Rule 1304 Continuing Education for Registered Persons #.   | <i>Rule 1304 Continuing Education for Registered Persons #.</i>  | FINRA Rule 1250(a)(1)–(4), (6) and (b) Continuing Education Requirements.#                           |
| Rule 1321 Transfer of Accounts ....  | Rule 1321 Transfer of Accounts ..  | <i>Rule 1321 Transfer of Accounts ..</i>   | FINRA Rule 11870 Customer Account Transfer Contracts.  |
| Rule 1325 Telemarketing .....  | Rule 1325 Telemarketing .....  | <i>Rule 1325 Telemarketing .....</i>   | FINRA Rule 3230 Telemarketing.   |

<sup>1</sup> FINRA shall only have Regulatory Responsibilities regarding the rule and not the interpretations and policies.

# Common Rules shall not include any provisions regarding (i) notice, reporting or any other filings made directly to or from MIAX [or], MIAX PEARL or MIAX Emerald, (ii) incorporation by reference of MIAX [or], MIAX PEARL or MIAX Emerald Rules that are not Common Rules, (iii) exercise of discretion in a manner that differs from FINRA's exercise of discretion including, but not limited to exercise of exemptive authority by MIAX [or], MIAX PEARL or MIAX Emerald, (iv) prior written approval of MIAX [or], MIAX PEARL or MIAX Emerald and (v) payment of fees or fines to MIAX [or], MIAX PEARL or MIAX Emerald.

In addition, the following provisions shall be part of this 17d–2 Agreement:

- SEA Rule 200 of Regulation SHO— Definition of “Short Sale” and Marking Requirements and
- SEA Rule 201 of Regulation SHO— Circuit Breaker
- SEA Rule 203 of Regulation SHO— Borrowing and Delivery Requirements
- SEA Rule 204 of Regulation SHO— Close-Out Requirement
- SEA Rule 14e–4—Prohibited Transactions in Connection with Partial Tender Offers ^

^ FINRA shall perform surveillance, investigation, and Enforcement Responsibilities for SEA Rule 14e–4(a)(1)(ii)(D).

**III. Date of Effectiveness of the Proposed Plan and Timing for Commission Action**

Pursuant to Section 17(d)(1) of the Act<sup>13</sup> and Rule 17d–2 thereunder,<sup>14</sup> after February 19, 2019, the Commission may, by written notice, declare the plan submitted by MIAX, MIAX PEARL, MIAX EMERALD, and FINRA, File No. 4–678, to be effective if the Commission

finds that the plan is necessary or appropriate in the public interest and for the protection of investors, to foster cooperation and coordination among self-regulatory organizations, or to remove impediments to and foster the development of the national market system and a national system for the clearance and settlement of securities transactions and in conformity with the factors set forth in Section 17(d) of the Act.

**IV. Solicitation of Comments**

In order to assist the Commission in determining whether to approve the proposed 17d–2 Plan and to relieve MIAX, MIAX PEARL, and MIAX EMERALD of the responsibilities which would be assigned to FINRA, interested persons are invited to submit written data, views, and arguments concerning the foregoing. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission’s internet comment form (<http://www.sec.gov/rules/other.shtml>); or

- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number 4–678 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, Station Place, 100 F Street NE, Washington, DC 20549–1090. All submissions should refer to File Number 4–678. 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 (<http://www.sec.gov/rules/other.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,

<sup>13</sup> 15 U.S.C. 78q(d)(1).

<sup>14</sup> 17 CFR 240.17d–2.

Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the plan also will be available for inspection and copying at the principal offices of MIAx, MIAx PEARL, MIAx EMERALD, and FINRA. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number 4-678 and should be submitted on or before February 19, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>15</sup>

**Eduardo A. Aleman,**

*Deputy Secretary.*

[FR Doc. 2019-00725 Filed 1-31-19; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270-258, OMB Control No. 3235-0268]

### Submission for OMB Review; Comment Request

*Upon Written Request, Copies Available From:* Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736

*Extension:*  
Rule 2a-7

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the “Commission”) has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Rule 2a-7 (17 CFR 270.2a-7) under the Investment Company Act of 1940 (15 U.S.C. 80a) (the “Act”) governs money market funds. Money market funds are open-end management investment companies that differ from other open-end management investment companies in that they seek to maintain a stable price per share, usually \$1.00. The rule exempts money market funds from the valuation requirements of the Act, and, subject to certain risk-limiting conditions, permits money market funds to use the “amortized cost method” of asset valuation or the “penny-rounding method” of share pricing.

Rule 2a-7 also imposes certain recordkeeping and reporting obligations on money market funds. The board of directors of a money market fund, in supervising the fund’s operations, must establish written procedures designed to stabilize the fund’s net asset value (“NAV”); establish written procedures to test periodically the ability of the fund to maintain a stable NAV based on certain hypothetical events (“stress testing”); review, revise, and approve written procedures to stress test a fund’s portfolio; and create a report to the fund board documenting the results of stress testing. The board must also adopt guidelines and procedures relating to certain responsibilities it delegates to the fund’s investment adviser. These procedures and guidelines typically address various aspects of the fund’s operations. The fund must maintain and preserve for six years a written copy of both these procedures and guidelines. The fund also must maintain and preserve for six years a written record of the board’s considerations and actions taken in connection with the discharge of its responsibilities, to be included in the board’s minutes, including determinations to impose any liquidity fees or temporary suspension of redemptions. In addition, the fund must maintain and preserve for three years written records of certain credit risk analyses, evaluations with respect to securities subject to demand features or guarantees, evaluations with respect to asset-backed securities not subject to guarantees, and determinations with respect to adjustable rate securities and asset-backed securities. If the board takes action with respect to defaulted securities, events of insolvency, or deviations in share price, the fund must file with the Commission an exhibit to Form N-CR describing the nature and circumstances of the action. If any portfolio security fails to meet certain eligibility standards under the rule, the fund also must identify those securities in an exhibit to Form N-CR. After certain events of default or insolvency relating to a portfolio security, the fund must notify the Commission of the event and the actions the fund intends to take in response to the situation.

A fund must also post certain periodic information on its website including disclosure of portfolio holdings, disclosure of daily and weekly liquid assets and net shareholder flow, disclosure of daily current NAV, and disclosures of financial support received by the fund, the imposition and removal of liquidity fees, and the suspension and resumption of fund redemptions. Lastly, for funds that elect to be retail funds,

they must create written policies and procedures reasonably designed to limit all beneficial owners of the fund to natural persons.

The recordkeeping requirements in rule 2a-7 are designed to enable Commission staff in its examinations of money market funds to determine compliance with the rule, as well as to ensure that money market funds have established procedures for collecting the information necessary to make adequate credit reviews of securities in their portfolios. The reporting requirements of rule 2a-7 are intended to assist Commission staff in overseeing money market funds and reduce the likelihood that a fund is unable to maintain a stable NAV.

Commission staff estimates that there are 433 money market funds (91 fund complexes), all of which are subject to rule 2a-7. Commission staff further estimates that there will be approximately 10 new money market funds established each year. Commission staff estimates that rule 2a-7 contains the following collection of information requirements:

- Record of credit risk analyses, and determinations regarding adjustable rate securities, asset-backed securities, asset-backed securities not subject to guarantees, securities subject to a demand feature or guarantee, and counterparties to repurchase agreements. Commission staff estimates a total annual hour burden for 433 funds to be 294,440 hours.
- Establishment of written procedures designed to stabilize NAV and guidelines and procedures for board delegation of authority. Commission staff estimates a total annual hour burden for 10 new money market funds to be 155 hours.
- Board review of procedures and guidelines of any investment adviser or officers to whom the fund’s board has delegated responsibility under rule 2a-7 and amendment of such procedures and guidelines. Commission staff estimates a total annual hour burden for 108 funds to be 540 hours.
- Records of the board’s determination for imposing any liquidity fees or temporary suspension of redemptions. Commission staff estimates a total annual hour burden for 2 funds to be 14 hours.
- Establishment of written procedures to test periodically the ability of the fund to maintain a stable NAV per share based on certain hypothetical events (“stress testing”). Commission staff estimates a total annual hour burden for 10 new money market funds to be 220 hours.

<sup>15</sup> 17 CFR 200.30-3(a)(34).