

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-85783; File No. SR-EMERALD-2019-19]

Self-Regulatory Organizations; MIAX Emerald, LLC; Notice of Filing of a Proposed Rule Change To Amend Exchange Rule 515A Concerning the PRIME Price Improvement and Solicitation Mechanisms and Rules 516 and 517 Regarding Post-Only Orders and Post-Only Quotes

May 6, 2019.

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 April 29, 2019, MIAX Emerald, LLC (“MIAX Emerald” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange is filing a proposal to amend Exchange Rule 515A, MIAX Emerald Price Improvement Mechanism (“PRIME”) and PRIME Solicitation Mechanism; Rule 516, Order Types Defined; and Rule 517, Quote Types Defined.

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

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 515A, MIAX Emerald Price Improvement Mechanism (“PRIME”) and PRIME Solicitation Mechanism. Specifically, the Exchange proposes to amend the rule to adopt new rule text providing that Post-Only Orders³ and Post-Only Quotes,⁴ collectively referred to as “Post-Only OQs,” may participate in a PRIME Auction. Additionally, the Exchange proposes to delete current Interpretation and Policy .07 and adopt new Interpretations and Policies .07 and .08.

PRIME is a process by which a Member⁵ may electronically submit for execution (“Auction”) an order it represents as agent (“Agency Order”) against principal interest, and/or an Agency Order against solicited interest.⁶ Currently, Post-Only Orders may not participate in a PRIME Auction and are rejected if received while a PRIME Auction is in process.⁷ Similarly, the current rule provides that Post-Only Quotes may not participate in a PRIME Auction and are rejected if received during a PRIME Auction.⁸ Additionally, if trading interest exists on the MIAX Emerald Book⁹ that is subject to the Managed Interest Process pursuant to Exchange Rule 515(c) or there is a Post-Only OQ subject to the POP Process on the MIAX Emerald Book for the option on the same side of the market as the Agency Order, the Agency Order will be rejected by the System¹⁰ prior to initiating an Auction or Solicitation Auction.¹¹

The Exchange now proposes to allow Post-Only OQs to participate in a PRIME Auction and to be received during a PRIME Auction as described in more detail below. The Exchange proposes to amend Exchange Rule 516(m), “Post-Only Orders,” to remove the sentence that provides that Post-Only Orders may

not participate in a PRIME Auction as set forth in Rule 515A(a) and if received during a PRIME Auction will be rejected. The Exchange also proposes to amend Exchange Rule 517(a)(1)(i), “Post-Only Quotes,” to remove the sentence that provides that Post-Only Quotes may not participate in a PRIME Auction as set forth in Rule 515A(a) and if received during a PRIME Auction will be rejected. In addition to these proposed changes the Exchange also proposes to amend Rule 515A(a)(1)(iv) which states, “Post-Only OQs may not participate in PRIME as an Agency Order,¹² principal interest or solicited interest. Post-Only OQs received during a PRIME Auction will be rejected.” The Exchange proposes to remove the second sentence which states, “Post-Only OQs received during a PRIME Auction will be rejected.”

The Exchange also proposes to amend subsection (a)(2)(i)(A) to clarify that for both single price submissions and auto-match, if the EBBO¹³ on the same side of the market as the Agency Order represents a limit order on the Book or a Post-Only Quote subject to the POP Process,¹⁴ the stop price must be at least \$0.01 increment better than the Book price. This proposed change supports the handling of Post-Only OQs in PRIME and clarifies the stop price minimum requirement.

The Exchange proposes to delete current Interpretation and Policy .07 of Rule 515A in its entirety and to adopt new Interpretation and Policy .07 in its stead. New Interpretation and Policy .07 will provide that if trading interest exists on the MIAX Emerald Book that is subject to the POP Process pursuant to Rule 515(i) for the option on the opposite side of the market as the Agency Order, the Agency Order will be automatically executed against the Post-Only interest if the execution would be at a price \$0.01 inside the EBBO. For an Agency Order to buy, the price would be \$0.01 higher than the EBB, and for an Agency Order to sell the price would be \$0.01 lower than the EBO. If the Agency Order is not fully executed after the interest subject to the POP Process is fully exhausted and is no longer at a price equal to the initiating price of the Agency Order, the PRIME Auction will be initiated for the balance of the Agency Order as provided in this Rule. With respect to any portion of an Agency Order that is automatically executed against managed interest pursuant to this paragraph .07, the

³ See Exchange Rule 516(m).

⁴ See Exchange Rule 517(a)(1)(i).

⁵ 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.

⁶ See Exchange Rule 515A(a).

⁷ See Exchange Rule 516(m).

⁸ See Exchange Rule 517(a)(1)(i).

⁹ The term “Book” means the electronic book of buy and sell orders and quotes maintained by the System. See Exchange Rule 100.

¹⁰ The term “System” means the automated trading system used by the Exchange for the trading of securities. See Exchange Rule 100.

¹¹ See Exchange Rule 515A(a).07.

¹² See Exchange Rule 515A(a).

¹³ The term “EBBO” means the best bid or offer on the Exchange. See Exchange Rule 100.

¹⁴ See Exchange Rule 515(i)(3).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

exposure requirements contained in Rule 520(b) and (c) will not be satisfied just because the Member utilized the PRIME. The following two examples demonstrate how Post-Only interest resting on the Book is handled.

Example 1. A resting Post-Only OQ subject to the POP Process¹⁵ on the opposite side from the Agency Order causes the Agency Order to automatically execute against the Post-Only interest at a price \$0.01 better than the EBBO.

MPV: .16 .05
EBBO: 3.00–3.10 (10x10)
ABBO: 17 3.00–3.10 (10x10)
Post-Only Order: Sell 1 @3.00

The Exchange receives a Post-Only order to sell at 3.00. Since the Post-Only order is priced equal to the opposite side EBBO it is subject to the POP Process and is therefore booked at 3.05 with a display price of 3.05.

EBBO: 3.00–3.05 (10x1)
PRIME Agency Order: Buy 10 @3.05¹⁸

The Exchange then receives a PRIME Agency Order to buy at a price equal to the opposite side EBBO, which includes a Post-Only order subject to the POP Process (without a POP, this would not occur). Since trading interest exists on the MIAX Emerald Book subject to the POP Process on the opposite side of the market from the Agency Order, the Agency Order is automatically executed against the Post-Only interest \$0.01 better than the same side EBB.

The PRIME Agency Order to Buy, trades 1 @ 3.01 with the Sell Post-Only order subject to the POP Process.

Since the Agency Order is not fully executed after the Post-Only interest is exhausted, an Auction is initiated for the balance of the order. A Request for Responses (“RFR”) is broadcast to all subscribers detailing the option, side, size and initiating price, and the RFR period is started.¹⁹

No Responses are received.

The PRIME Auction process will trade the Agency Order with the Contra interest.

The PRIME Agency Order buys 9 from the Contra interest @ 3.05.

Example 2. A resting Post-Only OQ subject to the Managed Interest Process on the opposite side from the Agency Order causes the Agency Order to automatically execute against the Managed Interest at a price equal to or better than the initiating price of the Agency Order.

MPV: .05
EBBO: 2.95–3.10 (10x10)
ABBO: 3.00–3.10 (10x10)

The Exchange receives a Post-Only order to sell at 3.00. Since the Post-Only order is priced equal to the opposite side ABBO, it is subject to the Managed Interest Process and is therefore booked at 3.00 with a display price of 3.05.

EBBO: 2.95–3.05 (10x1)
PRIME Agency Order: Buy 10 @ 3.05

The Exchange then receives a PRIME Agency Order to buy at a price equal to opposite side Post-Only order. Since trading interest exists on the MIAX Emerald Book subject to the Managed Interest Process on the opposite side of the market from the Agency Order, the Agency Order is automatically executed against the Post-Only interest at the resting Managed Interest’s Book Price.

The PRIME Agency Order to Buy, trades 1 @ 3.00 with the Sell Post-Only order subject to the Managed Interest Process.

Since the Agency Order is not fully executed after the Post-Only interest is exhausted, an Auction is initiated for the balance of the order. A Request for Responses (“RFR”) is broadcast to all subscribers and the RFR period is started.

No Responses are received.

The PRIME Auction process will trade the Agency Order with the Contra interest.

The PRIME Agency Order buys 9 from the Contra interest @ 3.05.

The Exchange also proposes to adopt new Interpretation and Policy .08 to Rule 515A, to state that if trading interest exists on the MIAX Emerald Book that is subject to the Managed Interest Process pursuant to Rule 515(c) or the POP Process pursuant to Rule 515(i) for the option on the same side of the market as the Agency Order, the Agency Order will be rejected by the System prior to initiating an Auction or Solicitation Auction. The following examples demonstrate this behavior.

Example 3. A resting Post-Only OQ subject to Managed Interest Process on the same side as the Agency Order causes the Agency Order to be rejected.

MPV: .01
EBBO: 1.00–1.06 (10x10)
ABBO: 1.00–1.05 (10x10)

Post-Only Order: Buy 1 @ 1.05

The Exchange receives a Post-Only order to buy at 1.05. Since the Post-Only order is priced equal to the opposite side ABBO, it is subject to the Managed Interest Process and is therefore booked at 1.05 with a display price of 1.04.

EBBO: 1.04–1.06 (10x1)
PRIME Agency Order: Buy 10 @ 1.05

The Exchange then receives a PRIME Agency Order to buy at 1.05 on the same side as the Post-Only order subject to the Managed Interest Process. Since trading interest exists on the MIAX Emerald Book subject to the Managed Interest Process on the same side of the market as the Agency Order, the Agency Order is rejected.

Example 4. A resting Post-Only OQ subject to POP Process on the same side as the Agency Order causes the Agency Order to be rejected.

MPV: .01
EBBO: 1.00–1.05 (10x10)
ABBO: 1.00–1.05 (10x10)
Post-Only Order: Buy 1 @ 1.05

The Exchange receives a Post-Only order to buy at 1.05. Since the Post-Only order is priced equal to the opposite side EBBO it is subject to the POP Process and is therefore booked at 1.04 with a display price of 1.04.

EBBO: 1.04–1.05 (1x10)
PRIME Agency Order: Buy 60 @ 1.05

The Exchange then receives a PRIME Agency Order to buy at 1.05 on the same side as the Post-Only order. Since trading interest exists on the MIAX Emerald Book subject to the POP Process on the same side of the market as the Agency Order, the Agency Order is rejected.

Auction Termination

An Auction shall conclude upon receipt by the System of an unrelated order, including a Post-Only Order, (in the same option as the Agency Order); (i) on the opposite side of the market from the RFR responses, that is marketable against either the NBBO, the initiating price, or the RFR response; or (ii) on the same side of the market as the RFR responses, that is marketable against the NBBO.²⁰ An Auction will also conclude if the System receives an unrelated limit order, including a Post-Only Order, (in the same option as the Agency Order) on the opposite side of the market from the Agency Order that improves any RFR response.²¹ Additionally, an Auction may conclude for any of the other reasons provided for in Rule 515A.²²

¹⁵ The POP Process is engaged if the limit price of a Post-Only OQ locks or crosses the current side EBBO where the EBBO is the NBBO. See Exchange Rule 515(i)(3)(ii).

¹⁶ The term “MPV” means minimum price variations. See Exchange Rule 510.

¹⁷ The term “ABBO” or “Away Best Bid or Offer” means the best bid(s) or offer(s) disseminated by other Eligible Exchanges (defined in Rule 1400(f)) and calculated by the Exchange based on market information received by the Exchange from OPRA. See Exchange Rule 100.

¹⁸ The Initiating Member must stop the entire Agency Order as principal or with a solicited order at the better of the NBBO or the Agency Order’s limit price (if the order is a limit order). See Exchange Rule 515A(a)(1)(ii).

¹⁹ See Exchange Rule 515A(a)(2)(i)(B).

²⁰ See Exchange Rule 515A(a)(2)(ii)(B) and (C).

²¹ See Exchange Rule 515A(a)(2)(ii)(D).

²² See Exchange Rule 515A(a)(2)(ii).

Post-Only Orders and Post-Only Quotes received during a PRIME Auction are treated in similar fashion to other unrelated interest received during a PRIME Auction as described in Rule 515A, however Post-Only Orders and Post-Only Quotes, by definition, will not remove liquidity.²³ If, at the conclusion of a PRIME Auction, same side Post-Only interest remains, the Post-Only interest will be subject to the POP Process as described in Exchange Rule 515(i).

Additionally, the Exchange proposes to amend Interpretation and Policy .12(b) of Rule 515A, which currently describes three scenarios where the System will reject a cPRIME Agency Order at the time of receipt. The Exchange proposes to amend paragraph (b)(iii) which currently provides that a cPRIME Agency Order will be rejected at the time of receipt if any component of the strategy is subject to the Managed Interest Process described in Rule 515(c)(1)(ii). The Exchange proposes to include a reference to Market Maker orders and quotes which may be managed, as described in Rule 515(d); and Post-Only interest being managed under the Post-Only Price Process, as described in Rule 515(i). The Exchange has two separate order management processes for orders; one for non-routable orders, and one specifically for Post-Only Orders (the Post-Only Price Process). Additionally, the Exchange has a management process for Market Maker orders and quotes which operates similarly to the Managed Interest Process.²⁴ The Exchange proposes to specify that the System will reject a cPRIME Agency Order at the time of receipt if any component of the strategy is subject to the Managed Interest Process described in Rule 515(c)(1), Rule 515(d), or the Post-Only Price Process described in Rule 515(i), to ensure that the integrity of the simple market remains intact. Finally, the Exchange proposes to make a minor non-substantive change to Interpretation and Policy .06 of Rule 515A, to clarify the term “order” in the second sentence of the paragraph refers to an Agency Order, and to capitalize the word “rule” in the same sentence, to align the text of Interpretation and Policy .06 to the proposed text of Interpretation and Policy .07.

The Exchange also proposes to amend subsection (m) of Exchange Rule 516, Order Types Defined, to delete the statement from the rule text that states, Post-Only Orders may not participate in

a PRIME Auction as set forth in Rule 515A(a) and if received during a PRIME Auction will be rejected. Similarly, the Exchange proposes to amend subsection (a)(1)(i) of Exchange Rule 517, Quote Types Defined, to delete the statement from the rule text that states, Post-Only Quotes may not participate in a PRIME Auction as set forth in Rule 515A(a) and if received during a PRIME Auction will be rejected. It is necessary for the Exchange to remove this rule text, as under this proposal Post-Only Orders and Post-Only Quotes may be eligible to participate in a PRIME Auction. Additionally, under this proposal, Post Only Orders and Post-Only Quotes received by the System during a PRIME Auction will not be rejected.

2. Statutory Basis

The Exchange believes that its proposed rule changes are consistent with Section 6(b) of the Act²⁵ in general, and furthers the objectives of Section 6(b)(5) of the Act²⁶ in particular, in that it is 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 facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The proposal to allow Post-Only OQs to participate in a PRIME Auction and to be received during a PRIME Auction promotes just and equitable principles of trade, removes impediments to and perfects the mechanisms of a free and open market and a national market system and, in general, protects investors and the public interest by increasing the potential liquidity that may be available during a PRIME Auction which may result in possible price improvement opportunities. It is in the investor's best interest to receive the best order execution price.

The proposal to amend Exchange Rule 516(m) and Exchange Rule 517(a)(1)(i) to remove a provision that Post-Only Orders and Post-Only Quotes, respectively, received during a PRIME Auction are rejected, promotes just and equitable principles of trade, removes impediments to and perfects the mechanisms of a free and open market and a national market system and, in general, protects investors and the public interest by ensuring that the Exchange's rules are accurate and

precise concerning the handling of Post-Only Orders and Post-Only Quotes. It is in investors and the public's interest for Exchange rules to be accurate and concise so as to avoid the potential for confusion.

The proposal to amend Rule 515A(a)(2)(ii) to add additional text clarifying the inclusion of Post-Only Orders in certain scenarios that will end a PRIME Auction adds clarity and precision to the Exchange's rule text. It is in investors and the public's interest for Exchange rules to be accurate and concise so as to avoid the potential for confusion.

The proposal to adopt new Interpretation and Policy .07 regarding the System's behavior for trading interest on the Emerald Book subject to the POP Process promotes just and equitable principles of trade, removes impediments to and perfects the mechanisms of a free and open market and a national market system and, in general, protects investors and the public interest by including resting interest in the PRIME Auction process. Under the Exchange's existing rule the System would reject an Agency Order prior to initiating an Auction if there was resting interest for the option on the same side of the market as the Agency Order. This proposal provides that this interest will now be included in the PRIME Auction which benefits investors and the public interest by including more liquidity in the Auction process and allowing the Auction to occur.

The proposal to adopt new Interpretation and Policy .08 promotes just and equitable principles of trade, removes impediments to and perfects the mechanisms of a free and open market and a national market system and, in general, protects investors and the public interest by providing additional detail regarding trading interest on the MIAx Emerald Book that is subject to the Managed Interest Process or the POP Process. Under the Exchange's existing rule if trading interest existed on the Book that was subject to the Managed Interest Process for the option on the same side of the market as the Agency Order the System would reject the Agency Order prior to initiating an Auction. This behavior remains the same under the Exchange's proposal. Under the Exchange's existing rule if there was a Post-Only OQ on the Book for the option on the same side of the market as the Agency Order the System would reject the Agency Order prior to initiating an Auction. Under the Exchange's proposal, the Exchange has clarified that if there is interest on the Book in the option on the same side of the market as the Agency Order that is

²³ See Exchange Rule 516(m) and 517(a)(1)(i) respectively.

²⁴ See Exchange Rule 515(d)(ii).

²⁵ 15 U.S.C. 78f(b).

²⁶ 15 U.S.C. 78f(b)(5).

subject to the POP Process pursuant to Rule 515(i) the System will reject the Agency Order prior to initiating an Auction. The Exchange believes this change more accurately describes the behavior of the System in this circumstance and it is in investors and the public's interest for Exchange rules to be accurate and concise so as to avoid the potential for confusion.

The proposal to amend Interpretation and Policy .12 of Exchange Rule 515A, to add additional conditions which will prevent a cPRIME Agency Order from being received promotes just and equitable principles of trade and protects investors and the public interest by ensuring that the integrity of the Simple Market remains intact by rejecting a cPRIME Agency Order if any component of the strategy is subject to a management process or the Post-Only Price Process. The Exchange believes the proposed rule change removes impediments to and perfects the mechanism of a free and open market and a national market system and will result in more efficient trading by ensuring orderly markets involving complex orders with common components. The proposed rule change will protect investors and the public interest by ensuring that executions occurring in a cPRIME auction are valid.

Additionally, the Exchange believes that including additional scenarios which will terminate a cPRIME Auction promotes just and equitable principles of trade and removes impediments to a free and open market by providing greater transparency concerning the operation of Exchange functionality. This provision ensures that a cPRIME Agency Order will always receive the best price on the Exchange while simultaneously preserving the integrity of the simple market.

The proposal to amend Exchange Rule 516 and Rule 517 to remove rule text which states that Post-Only Orders and Post-Only eQuotes, respectively, may not participate in PRIME Auctions and if received during an Auction will be rejected, ensures that the rules of the Exchange accurately describe the Exchange's functionality.

The Exchange believes the proposed changes promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system because they seek to add additional detail to, and improve the accuracy of, the

Exchange's rules. In particular, the Exchange believes that the proposed rule changes will provide clarity and transparency of the Exchange's rules to Members and the public, and it is in the public interest for rules to be accurate and concise so as to minimize the potential for confusion.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is intended to promote competition by expanding the type of interest that may participate in a PRIME Auction.

The Exchange believes that this enhances intermarket competition by enabling the Exchange to compete for this type of order flow with other exchanges that have similar rules and functionality in place.

The Exchange does not believe the proposal will impose any burden on intra-market competition as the Exchange's rules apply equally to all Members of the Exchange.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (a) By order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be 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 email to rule-comments@sec.gov. Please include File Number SR-EMERALD-2019-19 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR-EMERALD-2019-19. 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/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. 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 SR-EMERALD-2019-19 and should be submitted on or before May 31, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁷

Eduardo A. Aleman,

Deputy Secretary.

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²⁷ 17 CFR 200.30-3(a)(12).